92-254

No. _____

Supreme Court, U.S.
FILED
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IN THE

SUPREME COURT OF THE UNITED STATES

- - - -

OCTOBER TERM 1992

JAY B. BRIGHT, PETITIONER, Pro Se

V.

RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY
RUTGERS COUNCIL OF AAUP CHAPTERS
FEDERAL BUREAU OF INVESTIGATION
IMMIGRATION AND NATURALIZATION SERVICE
NEW JERSEY DIVISION OF STATE POLICE
- RESPONDENTS

PETITION FOR A WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

- - - - - - - - - - - -

PETITION FOR A WRIT OF CERTIORARI

- - - -

Jay B. Bright, Petitioner, Pro Se
212 - B Hillcrest Avenue
Collingswood NEW JERSEY 08108
(609) 854 7809

QUESTIONS PRESENTED

Question 1 :

Can a U.S. Court of Appeals ongoingly allow - sans opinion - a U.S. District Court's blatant usurpation of power including the U.S. District Judge's repeated defraudation of court documents and of court procedure, and the District Judge's ongoing endorsment of stark and unlawful deviations of defendants from lawful judicial procedure ?

Question 2:

Can a U.S. Court of Appeals permit its Clerks and Staff Attorneys to ongoingly and repeatedly obstruct justice ?

Question 3 : Can a U.S. District Judge dismiss complaints against named individuals in the executive branch of the United States government and those in a State (New Jersey) citing lack of subject matter jurisdiction and sovereign immunity when named offcials are sued by plaintiff,

the District court Complaint itself details and attaches documentation indicative of wrongdoing, plaintiff has already moved for production of documents prior to the dismissal ruling, and said defendants have refused to comply ?

Question 4 : Can a U.S. District Judge refuse to review dossiers on a plaintiff with the Goverments of the United States and of a State (New Jersey) when the plaintiff, in his District Court complaint itself, profusely details and thereto appends documents indicative of ongoing, malicious and brutal abuse of the plaintff's constitutional rights; and further states that these abuses occured (and continue) in league with, among other, other listed defendants ?

Question 5 : Would a U.S. District Judge's earlier dismissal of Complaints against listed defendant United States be held valid when later, in an oral

argument court hearing, the Judge says that it is his policy never to interfere with what United States does, when the District Court Complaint itself profusely details and documents indications of substantial wrongdoing by listed defendant United States ?

Question 6 : Can individuals in the executive branch of the United States actively and maliciously interfere - in league with persons who are part of the Federal Courts, among others - with the judicial process during as well as after the U.S.'s status as a defendant in a Federal complaint ?

Question 7 : Can a U.S. District Judge repeatedly, premeditatedly and with prejudice defraud court proceedings ?

Question 8 : Can a U.S. District Judge ongoingly endorse evidence tampering, falsification of evidence, fraudulent affidavits, and violation of lawful

judicial procedure by defendants ?

Question 9 : Can a U.S. District Judge dismiss complaints against defendants when discovery and other court proceedings involving defendants and defense counsel are characterized by clear, blatant and ongoing unlawfulness ?

Question 10 : Can a U.S. District Judge endorse and permit defendants (two out of five listed defendants) to file Answers to the Complaint late and in clear violation of Federal Rules of Civil Procedure ?

Question 11. : Can a U.S. District Judge refuse to refer to the U.S. Attorney plaintiff's repeated alerts to the court, profusely and meticulously documenting fraud committed by defendants and their counsel in court proceedings ?

Question 12 : Can a U.S. District Judge delay for a whole year ruling on urgent motions and petitions of a plaintiff relating to very substanal violations of

judicial procedure when the rules of that District Court require rulings in 24 days ?

Question 13 : Can a Deputy Clerk in a U.S. District Court issue an Order permitting a defendant to file an Answer to the Complaint when the statutory time limit has expired ?

Question 14 : Can a U.S. Court of Appeals, when it is repeatedly alerted with profuse documentation, endorse blatant and ongoing unlawfulness in District Court proceedings ?

Question 15 : Can a Title VII EEOC complaint be time-barred when the plaintiff "suspected" unlawful discrimination, demanded facts to verify it, the employer refused to supply facts, and the plaintiff within 180 days of said refusal filed the EEOC complaint ? And further when the employer then supplied falsified and fraudulent data to both the EEOC and the

U.S. Dist Court ?

LIST OF PARTIES :

The Petitioner, Pro Se, :

Jay B. Bright, 212 - B Hillcrest Ave,

Collingswood, New Jersey, 08108

Tel # (609) 854 7809 ;

The Respondents :

FOR RUTGERS UNIVERSITY:

Aron Schwartz,Esq,

77 Headquarters Pl N,

Morristown,NJ,07960;

FOR RUTGERS COUNCIL OF AAUP CHAPTERS:

Denise Reinhardt,Esq, 744 Broad St.,

Newark, NJ, 07102;

FOR NEW JERSEY: Michael Furda,Esq,

CN 116, Trenton NJ, 08625;

FOR THE UNITED STATES :

Dorothy Donnelly,Esq,

402 E. State St., Trenton, NJ, 08608.

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LIST OF STATUTES AND RULES CITED :

U.S. CONSTITUTION PROVISIONS :

The Fourth, the Fifth and the Fourteenth Amendments to the U.S. Constitution.

JURISDICTION IN THE DISTRICT COURT

(i) The Fourth Amemdment to the U.S. Constitution;

(ii) The Fifth Amemdment to the U.S.Constitution;

(iii) The Fourteenth Amemdment to the

U.S.Constitution;

(iv) Title VII of the Civil Rights Act of 1964, as amended;

(v) 42 USC 1981;

(vi) 42 USC 1983;

(vii) 42 USC 1985(2);

(viii) 42 USC 1986;

(ix) 42 USC 1988;

(x) 42 USC 2000(e);

(xi) 42 USC 2000(e)-2(a)(1);

(xii) 42 USC 2000(e)-2(a)(2);

(xiii) 42 USC 2000(e)-3(a);

(xiv) 42 USC 2000(e)-5(f)(3);

(xv) 42 USC 2000(e)-6(a);

(xvi) 42 USC2000(e)-6(b);

(xvii) 28 USC 1343;

(xviii) 28 USC 2201;

(xix) 28 USC 2202;

(xx) The Pendent Jurisdiction of the Dist Court/ 28 USC 1343

LIST OF JUDICIAL TENETS :

- Due Process of law
- Interest of Justice

LIST OF RULES CITED :

Fed R Civ P, Rule 1

Fed R Civ P, Rule 12(a) . . .

F R Civ P 33

F R Civ P 37(a)(3)

F R Civ P 45(b)

F R Civ P 56(d) . . . .

F R Civ P 56(f)

Dist Ct Rule 12(C)

N.B.: All rules enunciated / Apdx G-2

B O O K S :

Discovery by Haydock and Herr

Boston : Little, Brown & Co.,

1983

(quotation at Apdx J-4.2)

> > > >

5.0 OPINIONS BELOW :

The U.S. Court of Appeals for the 3d Circuit wrote no opnion vis-a-vis any of my appeals [Rehearing, Final Appeal, two Interlocutory Appeals, and a Mandamus Petition. The Final Appeal was filed April 30,1991, and was affirmed by a Judgment Order (i.e., sans opinion) on March 16, 1992.

The Rehearing Petition was denied sans opinion on April 15,1992.

The Opinion of the U.S. District Court enterd February 20,1991 is reproduced at AAPENDIX F.

6.0 JURISDICTION OF THE COURT :

This Petition for an Extraordinary (Supervisory) Writ is sought under 28 USC S 1651(a) vis-a-vis repeated, stark, and unlawful deviations from established (lawful) judicial procedure in the U.S. District Court for the district of New

Jersey (Camden, New Jersey vicin
ity, and on account of ongoing, unques-
tioned, sans opinion endorsement of such
by the United States Court of Appeals/3d
Circuit.

7.0 CONSTITUTIONAL PROVISIONS :

The Fourth Amendment to the U.S.
Constitution, the Fifth Amendment to the
U.S. Constitution, and the Fourteenth
amendment to the U.S. Constitution
(reproduced in APPENDIX G 1.)

R U L E S Involved :

Federal Rules of Civil Procedure :

Rule 12(a)

Rule 33

Rule 37(a)(3)

Rule 45(b)

Rule 56(d)

Rule 56(f)

Local(District) Rules

Rule 12(C)

(all Rules reproduced at Apdx G 2)

8.0 STATEMENT OF THE CASE :

KINDLY NOTE :

8.1 - The Petitioner is Pro Se, and has been a Pro Se litigant in both the lower Federal courts.

- The Petitioner, Pro Se, was a Plaintiff, Pro Se, and a Plaintiff-Appellant, Pro Se, in the lower courts

- The Petitioner, in this petition as well as in the lower courts, refers to himself as either "plaintiff" or as "I, me . . ."

- "D S I" = the Docket Sheet Item in the U.S. Dist Court

8.2 Petitioner/Plaintiff, Pro Se, "proceeded on the original record" in the U.S.C.A. / 3d Circuit; i.e., plaintiff's Brief in the C.A. had the entire record of the Dist Ct as its appendix.

8.3 On September 21, 1988. Petitioner ("plaintiff" or "I, me,...") filed a Complaint in the U.S. Dist Ct, District of

New Jersey, against Rutgers, the State University of New Jersey, the Faculty Union (Rutgers Council of AAUP Chapters), an official in the New Jersey Division of State Police, an official in the Federal Bureau of Investigation, and an official in the Immigration and Naturalization Service. The Complaint charged not only an abridgment of plaintiff's civil and constitutional rights by Rutgers University ("Rutgers"), but also a systematic, ongoing concerted activity to injur plaintiff economically, socially and in other ways; the conspiracy invlovling University officials, Union officials, faculty members, faculty union members, several adult students, businessmen who were on the University's advisory committees, and officials in the County, State and the U.S. govenments, among others : most with strong and ongoing ties with Rutgers. The complaint, with its forty-

four exhibits attached thereto, documented some of the conspiracy. Portions of the Dist Ct Complaint are at APPENDIX H while the Dist Ct jurisdiction is at APPENDIX A-3 .

8.4 On December 23,1988 plaintiff (i.e., Petitioner) filed motions in the Dist Ct seeking, among other, a "production of documents" from all listed defendants - Please See APPENDIX I - whereupon, ignoring said motion for discovery, conusel for defendants New Hersey and U.S. cross-moved for dismissal of complaints against them.

8.5 On March 22, 1989 the U.S. District Judge dismissed my (plaintiff-petitioner's) complaint against the official of New Jersey Division of State Police on grounds of sovereign immunity - Please See APPENDIX B .

8.6 On April 4, 1989 the District Judge dismissed my complaint against

individual officials in the Federal Brueau of Investigation (FBI) and in the Immigration and Naturalization Service (INS) in the face of my pending, and ignored, motions for discovery (production of documents) - Please See APPENDIX C.

8.7 Between July 1989 and September 1989 the remaining two defendants - Rutgers University (Rutgers) and the faculty union : Rutgers Council of AAUP Chapters (AAUP, or the Union) resorted to substantial unlawfulness via-a-vis discovery of facts; almost totally evading full and lawful discovery, and resorting to evidence tampering, withholding evidence, submitting falsified and fraudulent information, and commitilng other blatant unlawfulness in several other court proceedings as well; Please See in this regard the following appendices : APPENDIX J-1 gives examples of totally and unlawfully evasive Answers provided

by Rutgers to my interrogatories regarding facts as to Rutgers and the collusive unlawfulness charged in the Complaint; APPENDIX G 2 / therein Rules 33 and 37 shows the Federal Rules Rutgers University violated here alone; APPENDIX J-5 pertains to my motion giving very detailed elaborations of unlawfulness vis-a-vis each one of the 41 of the 42 interrogatories I had posed of Rutgers; APPENDIX J-6 relates to my overview of the practically total and unlawful evasion of discovery of facts by the defendants and my motions to compel discovery; APPENDIX J-7 alerts the court <u>again</u> that U.S. and New Jersey and others still totally ignored subpoenas for production of documents; APPENDIX J-8 details defendant the faculty union's (AAUP's) ongoing fraud vis-a-vis discovery proceedings <u>and</u> other court proceedings; APPENDIX J-9 gives an overview of

the blatant lawlessness relatilng to several Dist Ct proceedilngs - I (the plaintiff) complaining that the court had persistently stonewalled discovery with malice and had sounded the so-called death knell for my complaint; APPEDIX K refers to ongoing unlawfulness vis-a-vis listed defendant U.S., as well as defendants Rutgers University and the Rutgers Council, and also ongoing obstruction of justice engaged in by court clerks and court staff attorneys.

8.8 On November 29,1989 I (Petitioner / plaintiff-appellant) filed an Interlocutory Appeal with the U.S.C.A., citing the Cohen Doctrine crying death-knell for my complaint; but the C.A. denied said interlocutory appeal on grounds of 'lack of finality' of the case.

8.90 On December 13,1989 the assigned Magistrate halted all discovery in the face of my several petitions alerting the

court that discovery of facts had been both incomplete and accompanied by ongoing unlawfulness in both discoveriy proceedilngs as well as in other court proceedings - Please See APPENDIX D.

It is to be noted that the Magistrate calculatlingly called the Order staying discovery "temporary"; the discovery was never resumed, defendants escaped blatant ongoing unlawfulness vis-a-vis numerous court proceedings including discovery of facts.

8.91 The remaining two defendants - Rutgers and the faculty union - then moved to dismiss; I again petitioed for Fed R Civ P Rules 56(d) and 56(f) [APPENDIX G2 shows the enunciation of the Rules] fact-finding continuance - Please See APPENDIX J-9.

8.92 On January 5,1990 I filed with the U.S.Court of Appeals / 3d Cir, a Mandamus Petitioin regarding the profuse

ly documented and meticulously detailed unlawfulnes in the Dis Ct.

8.93 As with my preceding two interlocutory appeals, the U.S.C.A./3d Cir denied the **Mandamus Petition** as well sans investigation or opinion.

8.94 On February 23,1990 the Judge had an entry made in the Docket Sheet reserving judgment on my motins and petitions for full and lawful discovery and on my alerts to the court of massive unlawfulness in court pro ceedings - Please See APPENDIX E.

8.95 The District Judge ("the Judge") then chose to freeze the docket for a whole year in the face of 1my urgent petitions, although Local (Dist Ct) Rules requred him to rule on pendilng motions on the 24 th day of the filing of the motions (said Local Rule is enunciated at APPENDIX G 2).

On February 20,1991 the Judge

dismissed complaints against Rutgers University and the faculty union - the Opinion is at APPENDIX F .

8.96 I, Petitioner/plaintiff-appellant will demonstrate with full annotation and with quotations from Dist Court documenmts hereinunder in the "Reasons for Grantilng the Writ" section, among other things, that in his said opinion as well, the Judge has premeditatedly and prejudicially resorted to numerous falsifications of the Dist Ct record, thus again criminally abusing the Federal System and the judicial canons of ethics and impartiality. I have cited several other reasons as well, in support of this Petition.

REASONS FOR GRANTING THE WRIT :

9.00 The Petitioner, Pro Se ('I', 'me', . .) presents the following seven (7) reasons for granting this Petition for an Extraordinary(Supervisory) Writ.

9.01 FIRST, the extaordinary (supervisory) writ will be an aid to this Court's appellate jurisdiction. The Petitioner has already exhausted all available appellate procedure below via petitioner's (plaintiff-appellant's) Appeal to the U.S.C.A. / 3d Cir which court has let stand, without opinion - APPENDIX A-1 , extraordinary usurpation of power in the U.S.District Court below as also via a denial of an In Banc Rehearing -APPENDIX A 2 . This Supreme Court of the United States, the highest appellate court in the country, thus has appellate jurisdiction.

9.02 SECONDLY, there are present exceptional circumstances warranting the exercise of this Court's discretionery and supervisory pwoers. The exceptional circumstances in the U.S. District Court below include the following : [i] The Dist Judge's repeated, premeditated and prejudicial misrepresentation of the Dist

Ct record; [ii] The Judge's (as the assigned Magistrate's) repeated endorsement of rampant unlawfulness of defense counsel and of defendants vis-a-vis both the Federal Rules of Civil Procedure and established(lawful) court procedure; [iii] The Magistrate's and the Judge's resort to unlawfulness in court proceedings [iv] The Dist Ct's tolerance of obstruction of justice by the executive branch of the United States (whose officials are listed defendants; [v] Extreme usurpation of power by the Dist Judge repeatedly thwarting the interest of justice - unchallenged and unquestioned by the U.S. Appellate Court; [vi] Obstruction of justice by the USCA/3d Cir vis-a-vis proceedings in that court.

The Petitioner has presented portions of court documents - both in the U.S.Dist "Ct and in the U.S.C.A. - in the Appendices to this Petition in support of the

above; with a discussion of and reference to each appendix to this Petition in this text portion of this Petitiion.

Compounding the extraordinary and blatantly unlawful abuse of discretion by the U.S.Dist Judge - showing a persistent disregard for the law and an ongoing endorsment of unlawful activity of defense counsel, defendants, the executive branch of the U.S., and others - is the Judge's persistent proclivity to unabashedly and maliciously distort the District Court record.

> > >

9.03 THIRDLY, adequate relief cannot be had in any other form ; [i] I have (the undersigned, Petitioner/plaintiff has) exhausted the appellate procedure below via an appeal to the USCA / 3d Cir which was denied sans opinion - APPENDIX A 1 - and an In Banc Rehearing, which was also denied - APPENDIX A 2 . Additionally, the above referenced appeal and the subsequent In Banc Rehearing denial were preceded by two interlocutory appeals and a Mandamus Petition to the USCA and a Complaint of Judicial Misconduct against the Dist Judge and a C.A. Judge to the Judicial Council of the Third Circuit. Each of the above was unsuccessful without any investigation or any opinion. Inasmuch as this Petition of necessity takes the form of a complaint, I must point out to this Court (with whom I must be perfectly

candid) that I have observed among the Philadelphia / Camden,New Jersey based Third Judicial Circuit very substantial cohesiveness. A chronology of the above appeals is presented toward the end of APPENDIX M . Thus also, this Supreme Court of the United States alone is in a position to effectually address the very substantial departure in the lower Federal courts from the highest standards of ethics and impartiality which must prevail in the Federal System as in all of our courts.

9.04 FOURTHLY, the C.A. Judgment Order, letting stand sans opinion extreme unlawfulness and usurpation of power by a Dist Judge is reviewable only by this Supreme Court of the United States.

9.05 FIFTHLY, an issue of an Extraordinary (Supervisory) Writ by this Court in this case would be agreeable to the principles and usages of law. And this since

the Dist Ct proceedings are very badly tarnished by repeated, stark, and unlawful deviations from established lawful procedure : what is at stake in this case is proper and lawful adminstration of the Judicial System in our Federal courts. Elaborations follow.

9.06 SIXTHLY, an Extraordinary (Supervisory) Writ is called for in this case -rather than a Certiorari - since the USCA itself has repeatedly exhibited both sans opinion insensitivity to ongoing unlawfulness in the Dist Ct, and improprieties indicative of clear, collusive obstruction of justice. Elaborations follow.

9.07 SEVENTHLY, there is a question whcih the C.A. should have settled but failed to settle : namely the Dist Judge's steadfastly and ongoingly refusing to protect my Constitutional rights from being abused ongoingly and unchecked by a

defendant - the United States - whom the Judge dismissed as a defendant without discovery of facts and who, I (plaintiff) alerted the court, continued and still continues to brutally, maliciously and fraudulently abuse my Constitutional rights. The C.A., by sans opinion letting stand this matter, has thrown this matter also in this Court's lap. In this regard also I have elaborated in the following pages. And this again is a matter this Court alone can address at this stage to ascertain that justice is served.

9.08 To begin with, kindly examine the Dist Judge's final comprehensive ruling at APPENDIX F. Several of the Dist Judge's key and pivotal statments in the said ruling are premeditated and prejudicial falsehoods vis-a-vis the Dist Ct record : to begin with, in the paragraph that begins with "The AAUP and Rutgers

both have filed . . ", the Judge calculatingly misrepresents pivotal court events. The Judge falsely claims that I sought "further discovery". In reality, I had never sought additional discovery as full and lawful discovery of facts was stonewalled by each and every one of the defendants and by the Dist Ct itself in the first place. Please See in this regard the following appendices to this Petition: [i] APPENDIX J-10 shows specifics of my repeated prayers to the Court seeking full and lawful discovery; [ii] In APPENDIX J-7, I alert the court that the U.S. and New Jersey (listed defendants whom the Judge let off the hook early on and without discovery of facts inspite of my prior and then pending motion for production of documents) had also totally evaded discovery of facts and had ongoingly ignored the subpoenas I sent them for production of documents. [iii]

APPENDIX J-9 shows my sounding an alarm that the Dist Ct had unlawfully aborted the discovery process for all defendants, amounting to unlawfully ending the case; [iv] APPENDIX J-5 alerts the court that Rutgers has totally and unlawfully evaded 41 of the 42 interrogatories I posed to them; [V] Blatant unlawfulness carried on with impunity by the faculty union (AAUP) is referenced in first APPENDIX J-8 and then in APPENDIX 10 which also kindly peruse.

9.09 Not only did Rutgers and the AAUP totally and unlawfully evade discovery, they provided falsified and fraudulent information. Rutgers, for example provided provided falsified and fraudulent salary data for the School of Business to the Dist Ct and before that to the EEOC - Please See the first three interrogatories answered by Rutgers at APPENDIX J-1. The Judge, though alerted, actually (and

criminally) covered up for Rutgers : APPENDIX L / therein paragraph 1.3.0.332.

9.10 In the two footnotes in his comprehensive ruling (APPENDIX F) the Judge again resorts to premeditated falsehoods vis-a-vis the Dist Ct record : In the first footnote he deliberately misleads all who read his ruling that I (the plaintiff) had some how noted that I was somehow permitted tomake any desired changes in my deposition transcripts. In reality, my repeated cries that I was denied my right to make changes in my deposition transcripts was an equally pivotal issue; and the judge in said footnote covers up his (and the Magistrate's) wilful, prefudicial and unlawful act in yet another in a series of exercises in defraudation of court record. In fact, I alerted the Magistrate and the Judge repeatedly that the deposition transcripts are worthless and invalid

since I was denied my right to make changes in them - Please See in this regard the following appendices : [i] APDX J-3 wherein the Magistrate denies me my right to make desired changes in the deposition xpts. (Note: The Judge claims the exact opposite in said footnote). This is among several of his and the Magistrate's premeditated unlawful acts the judge is hiding by actual fraud. [ii] In APPPENDICES J 4.1 AND J-6 I complain loud and clear that I am denied my right to make desired changes in the deposition xpts, and that the court lawfully must let me do so or the xpts would be useless. [iii] APDX J4.2 lends further support to my demand for my right to make changes in the deposition xpts.

9.11 Full and lawful discovery vis-a-vis the U.S. and New Jersey was also premeditatedly stonewalled by the Dist Ct : Please See here APDX J-7, APDX J-9,

and APDX L / therein paragraphs 1.011, 1.020, and 1.022.

Please see here ALSO Rutgers' unlawfully evasive answers of interrogatories 11, 12, 16, and 17 at APPENDIX J 1.

9.12 The District Judge's ongoing, premeditated exercises in wilful and prejudicial falsehoods are catalogued at some lenght at APDX L / therein paras 1.03, et seq, all of which information is actually part of the Petitioner/Plaintiff-Appellant's Brief he had submitted to the U.S.C.A./3d Circuit. Both Appendices L and M are excerpts of the plaintiff-appellant's C.A. Brief. As noted earlier, the C.A. let stand the Dist Judge's rulilng sans opinion in both the C.A.'s affirmation and also in the In Banc Rehearing denial as in two earlier interlocutory appeals, a Mandamus Petition, and a **Complaint of Judicial Misconduct** to the Judicial

Council of the **Third Judicial District** (chronology atthe end of APPENDIX M.

9.13 The Dist Judge, with long ties to the Rutgers law school located one block from the Federal Building and right behind it, had, in fact worked with several former Rutgers law school alumni in key positions in the Federal and New Jersey law enforcement apparatus in Camden, NJ; including a Rutgers graduate who, in quick succession, was a law clerk to a Federal judge in Camden, a county prosecutor, the Asst U.S. Atty in Charge and (now) a U.S. Magistrate in the U.S.Dist Ct, Camden vicinity. With others in the Federal Apparatus, collusive unlawfulness was evolved to build fraudulent dossiers on me to both discredit me and to professionally and socially assasinate me and to perpetuate and fraudulently maintain malicious violation of my Constitutional rights. Please See here APPENDIX L /

therein paras 1.053 through 1.056 as also 1.0601, 1.061, and 1.07 et seq. ALSO SEE APPENDIX J 1, therein interrogatories 11, 12, 16, and 17 which were totally and unlawfully evaded by Rutgers, and the matter stonewalled by the Judge.

PLEASE NOTE THAT BOTH APPENDIX L AND APPENDIX M were before the U.S.C.A./3d Cir as part of my C.A. Brief.

9.14 Continuing the examination of the Dist Judge's ruling -APPENDIX F- therein under the heading "A. Statutes of Limitations" is seen yet another glaring and pivotal misrepresentation : The judge time-bars all claims (falsely) claiming that (somehow) all causes of action were outdated. In reality, I had specifically claimed in my Dist Ct complaint (please see APPENDIX H) ,in the latter part of the para that begins "Rutgers University, their Federal Govt. and other collaborators have rendered

plaintiff unable to find a job anywhere in the country, despite initial very strong interest shown by numerous prospective employers around the country . . ". that the cause of action was up until the day of the filing of the complaint. Please See here both APPENDIX H the District Court Complaint, and APPENDIX J 1 / therein Rutgers'unlawful evasion of interrogatoreis 10a, and 10b.

9.15 My having invoked the "pendent jurisdiction" of the Dist Ct, in addition to the Provisions of the U.S. Constitution (Please see the Dist Ct jurisdiction at APDX G 2),the Judge had an additional obligation to ascertaining full and lawful discovery along those lines as well.

9.16 Vis-a-vis listed defendant United States also and again the Judge calculatingly defrauds the court record in regard to full and lawful discovery of

facts as to the FBI, the INS and New Jersey in his ruling /therein para that begins "On March 22, 1989 an order was filed . . .". The judge premeditately defrauds the court record when he contends here again that I had somehow sought additional discovery vis-a-vis the FBI and the INS. In fact,there had been absolutely no discovery vis-a-vis the FBI, and the INS had submitted falsified and fraudulent documentation - Please see APDX J 7 , APDX J 9, and APDX J 10. The Dist Ct had steadfastly stonewalled discovery in regard to the U.S. and New Jersey as well.

9.17 The Judge, in an oral hearing on February 16,1990 actually and flatly stated that he never interferes with what (listed defendant) United States does. Please see - APPENDIX L , therein para 1.3.338. This admission of posture by the U.S. District Judge again and fur-

ther establishes premeditated and calculated usurpation of power.

9.18 What is equally noteworthy is the ongoing and sans opinion endorsement of all of the above by the U.S. Court of Appeals / 3d Cir located one mile and across the bridge in Philadelphia.

9.19 The Judge further falsifies the court record vis-a-vis the AAUP falsely claiming that I had somehow sought "further discovery"- Please see the judge's ruling / para that begins "The AAUP and Rutgers have both filed separate motions . . " In reality, the AAUP had also totally evaded lawful discovery - Please See : APDX J 8 and APDX J 10; and then please peruse APDX L / therein paras 1.3.0.333, 1.3.0.3350, and 1.3.0.3351.

9.20 In regard to Rutgers University's further resort to blatant unlawfulness, I alerted the Judge that apart from

unlawfully evading 41 out of the 42 interrogatories I posed to Rutgers, the University had supplied falsified and fraudulent information to BOTH the Dist Ct and before that to the EEOC - Please See APPENDIX L, therein para 1.3.0.332 , and then APPENDIX J 1 therein the first three interrogatories.

9.30 The Judge, in the second footnote (of two footnotes) in his ruling at APDX F again misleads all reading his ruling and defrauds the court record on the pivotal issue of full and lawful discovery stating that I am (somehow) vague about my assertion about discovery. The exact opposite is true. Please see here the following :

Apdx J 5 gives a very elaborate, interrogatory by interrogatory, analysis of the deficiences in Rutgers' answers to my interrogatories; Apdx J 6 further elaborates on J 5; Apdx J 7

elaborates about U.S. and New Jersey's unlawful and total evasion of discovery; Apdx J 8 & Apdx J 10 both elaborate about AAUP's evasion and fraud in discovery and in other court proceedings; Apdx J 9 cautions the court about its mischief.

9.40 AS TO THE ONGOING, UNCHECKED (AND STILL ONGOING) UNLAWFULNESS OF THE U.S. :

I had alerted the Judge at the outset that among other, my Constitutional rights were maliciously and fraudulently abused by the U.S. and that the Rutgers-Union-Govt. complex was ongoingly involved : Please See APPENDIX H (the Dist Ct Complaint) therein the para that begins "When plaintiff tried to reason with the University. . .". The Judge then, in the face of my pending motion for production of documents from all listed defendants, dismissed New Jersey and U.S.. Please see in this regard the

following APDX I ; APDX B; APDX C; APDX J 1 /therein ints 11, 12, 16, and 17; APDX J 7; and then APDX L / paras 1.08, 1.102, 1.1021 .

9.50 THERE IS A CENTRAL PURPOSE to the Dist Judge's massive exercise in deception-by-design AND in the U.S.C.A./3d Circuit's ongoing endorsment of such : to protect the miscreants in the Rutgers -Business-Government complex from criminal prosecution, to keep any investigation of the matter at bay, and of course to rail-road the maliciously brutalized and professionally and socially assasinated plaintiff. Along with the numerous fundamental tenets of the interest of justice, the Judge has also brutally and maliciously violated Fed Rules of Civ Proc, Rule 1 : (enunciation of all Rules involved at APDX G 2.)

9.60 AS TO THE U.S.C.A./3d CIRCUIT'S STUDIED INSENSITIVITY, it should

FIRST be noted that [i] the C.A. had the entire Dist Ct record as an appendix to my C.A. brief since I was a Pro Se 'Proceeding on the original record' and thus knew first hand and fully of the Organized Unlawfulness in the District Court proceedings; SECONDLY, the C.A. again looked the other way by virtue of their in toto and sans opinion endorsement of the Judge's ruling discussed supra; and THIRDLY, the C.A. had already begun looking the other way due to my interlocutory appeals, Mandamus Petition, and the Complaint of Judicial Misconduct. 9.61 Not only was the Third Circuit looking the other way, it had actively fostered ongoing obstruction of justice : Please See in this regard APPENDIX K .

In essence, the C.A. has ongoingly failed to protect the Federal System from the Dist Judge's agrressive deception of the System, and has further

failed to check the Judge's ongoingly flaunting the principle of comity by which District Court decisions in this great nation have historically been honored. Both the C.A. and the Dist Judge (and Magistrate) have here seriously tarnished judicial canons of rigorous and impartial justice MANDATED BY FED R CIV P, RULE 1 (Please See enunciation at APPENDIX G 2) thus also there is justification for granting the Extraordinary Writ.

10.0 C O N C L U S I O N :

It is respectfully prayed that the Court, for any or all of the reasons cited, grant the Petition for an Extraordinary (Supervisory) Writ .

10.1 Case precedents where this Court granted such an Extraordinary (Supervisory) Writ are as follows :

[i] Will v. U.S. 389 US 90, 95 100n 19 L Ed 2d 305 88 SCt 269 1967

as also

[ii] Will v. Calvert Fire Ins Co

437 US 655, 665-6 n, 1978

In the above case precedents, the Dist Judge showed a persistent disregard for both Rules and Statutes and for the unlawful activity of the defendants, and this Court granted an Extraordinary Writ;

Such was also the case in

[iii] De Beers Consolidated Mines v. U.S.

325 US 212 1945(1949?)

[iv] Hanna v. Plumer

380 US 460 463 85 SCt 1136 14 L Ed 2d 8 (1965)

where the District Court had presented a threat to the goal of uniformity of Federal procedure and the Court of Ap-

peals had failed to check the unlawfulness.

Similarly, in

[v] McNabb v. U.S.

318 US 332 63 SCt 608 87 L Ed 819 1943

this Court granted an Extraordinary (Supervisory) Writ conforming to this Court's role of judicial supervision of the administration of justice in the interest of maintaining established standards of procedure and of evidence.

Such was also the case in

[vi] La Buy v. Howes Leather Co.

352 US 249 259-60 1 L Ed 2d 290 77 SCt 309 1957 Rehg Den 352 US 1019 1 L Ed 2d 560, 77 SCt 553

and in

[vii] Schlagenhauf v. Holder

379 US 104 111 1964

this Supreme Court had to step in when the Dist Ct repeatedly strayed far

lawful judicial procedure, and the C.A. affirmed such

10.2 By way of remedy, the Petitioner prays for all appropriate remedy that would make the Petitioner whole again and reflect appropriate punishment for the wrongdoers; the remedy keeping in mind that the District Court at Camden, N J vicinity, as profusely elaborated above, would likely not be conducive to proper and lawful administration of justice vis-a-vis this Petitioner.

Nor is the U.S.C.A./3d Cir likely to suddenly change and be sensitive vis-a-vis the matter at hand in view of the ongoing insensitivity, and in view of the circuit's own unprecedented and active obstruction of justice elaborated at length above.

Ideally, an appropriate Order from this Court making for justice without further merry-go-rounds to make the

plaintiff-petitioner whole again, and reflecting punishment for the wrongdoers, is prayed for.

- - - - - - - - - - - - - -

Respectfully submitted,

J. B. Bright, Ph. D.

Jay B. Bright, Petitioner, Pro Se
212-B Hillcrest Avenue
Collingswood NJ 08108
(609) 854 7809

- Date Timely Filed : July 14, 1992
- Date Refiled with format-corrections : August 7, 1992

T H E A P P E N D I C E S :

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APPENDIX A.0 :

Chronology in the U.S.Court of Appeals / 3d Circuit :

[i] The U. S. Court of Appeals for the Third Circuit affirmed by Judgment Order, all the Orders of the U.S.District Court, Camden, New Jersey, SANS AN OPINION, on March 16,1992 (reproduced below);

[ii] The Appellate court denied a Re-

hearing Petition by plaintiff-appellant / petitioner, SANS AN OPINION, on April 15,1992.(reproduced below)

APPENDIX A1 : Judgment Order, U.S.C.A./3d Cir, March 16,1992

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

NO. 91 - 5353

Jay B. Bright

Appellant

v.

Rutgers, the State University of New Jersey;

Rutgers Council of AAUP Chapters;

Federal Bureau of Investigation

U.S. Dept. of Justice

Immigration and Naturalization Service

U.S. Dept. of Justice

New Jersey Division of State Police

Appeal from the United States District Court

for the District of New Jersey

(D.C. Civil No. 88-04115)

District Judge : Stanley S. Brotman

Submitted under Third Circuit Rule 12(6)

March 6, 1992

Before : STAPLETON, MANSMANN, Circuit Judges

and POLLAK, District judge

JUDGMENT ORDER

After consideration of all contentions reaised by the appellant, it is

ADJUDGED AND ORDERED that the judgment of the district court be and is hereby affirmed.

Costs taxed against the appellant.

*Honorable Louis H. Pollak of the United States District Court for the Eastern District of Pennsylvania, sitting by

designation.

BY THE COURT,

sd/

Carol Los Mannsmann

Circuit Judge

Attest :

sd/

Sally Mrvos, Clerk

March 16,1992

A P P E N D I X A 2 :

Rehearing denial, U.S.C.A./3d Cir,

April 15,1992

UNITED STATES COURT OF APPEALS

FOR HE THIRD CIRCUIT

No. 91-5353

Jay B. Bright

Appellant

v.

Rutgers, the State University of

New Jersey; et al.

SUR PETITION FOR REHEARING

Present : SLOVITER, Chief Judge,

BECKER, COWEN, NYGAARD AND ROTH, Circuit Judges, and POLLAK, District Judge *

The petition for rehearing filed by appellant in the above entitled case having been submitted to the judges who participated in the dicision of this court and to all other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing , and a majority of the circuit judges of the circuit in regular active servcice not having voted for rehearing by the court in banc, the petition for rehearing is denied.

BY THE COURT,

Dated : April 15,1992 sd/ Carol Los Mansmann

* Disdtrict Judge Pollak voted only as to panel rehearing.

A P P E N D I X A 3 :

DISTRICT COURT JURISDICTION :

(i) The Fourth Amemdment to the U.S.Constitution;

(ii) The Fifth Amemdment to the U.S.Constitution;

(iii) The Fourteenth Amemdment to the U.S.Constitution;

(iv) Title VII of the Civil Rights Act of 1964, as amended;

(v) 42 USC 1981;

(vi) 42 USC 1983;

(vii) 42 USC 1985(2);

(viii) 42 USC 1986;

(ix) 42 USC 1988;

(x) 42 USC 2000(e);

(xi) 42 USC 2000(e)-2(a)(1);

(xii) 42 USC 2000(e)-2(a)(2);

(xiii) 42 USC 2000(e)-3(a);

(xiv) 42 USC 2000(e)-5(f)(3);

(xv) 42 USC 2000(e)-6(a);

(xvi) 42 USC2000(e)-6(b);

(xvii) 28 USC 1343;

(xviii) 28 USC 2201;

(xix) 28 USC 2202;

(xx) The Pendent Jurisdn of the Dist Ct

A P P E N D I X B :

Opinion of the U.S.District Judge, entered March 22,1989 (portion pertaining to the Dist Judge's granting New Jersey Division of State Police's cross-motion to dismiss plaintiff's Complaint against them) :

BROTMAN, Disdtrict Judge.

Plaintiff has filed suit against Rutgers, the State Uiversity of New Jersey ("Rutgers"), the New Jersey Division of State Police ("Division of STate Police"), and other defendants charging discrimination and other unlawful conduct arising out of his emplyment as an assistnat professor andlater lecturer at Rutgers. Presntly before the court are plaintiff's motions (1) to amend the docket sheet

for this case; (2) for me to recuse myself from this case; (3) for this court to request the Attorney General of the United States to appoint a special prosecutor in this case; and (4) to order defendant Rutgers to appoint plaintiff to the position of "Court Ordered Provisional Professor". Also before the court is defendant Division of State Police's cross-motion to dismiss. For the reasons set forth below, the court will deny plaintiff's motions and will grant the motion of the Divisioin of State Police.

. . . .Finally, defendant Divison of State Police has moved to dismiss plaintiff's complaint on the grounds that the eleventh amendmant, U.S.Const. Amend. XI, bars this lawsuit. The eleventh amendment prevents any suit by a citizen of a state against any state in federal court. Hans b. Louisiana, 134 U.S. 311 (1890); see Edelman v. Jordan, 415 U.S. 651, 663

(1974). The eleventh amendment bar does not apply where a plaintiff seeks prospective injunctive relief against a particular state official rather than against the state itself. Ex Parte Young, 209U.S. 123 (1908); Edelman, 415 U.S. at 663-68. Plaintiff's lawsuit against the Division of State Police is in essence a lawsuit against the State of new Jersey. See Urbano v. Board of managers of New Jersey State Prison, 415 F2d 247, 250-52)3d Cir. 1969), cert. denied, 397 U.S. 948 (1970). Because this action does not fit into any exception to the eleventh amendment bar, the court must dismiss the complaint against the Division of State Police.

An appopriate order will be entered.

(signed) Stanley S. Brotman

United States District Judge.

Dated : March 14,1989

A P P E N D I X C :

Opinion of the U.S.District Judge,

entered April 4,1989, dismissing complaint against Federal Bureau of Investigation [FBI] and Immigration and Naturalization Service [INS] :

BROTMAN, District Judge.

Plaintiff has filed suit against Rutgers, the State University of New Jersey ("Rutgers"), the Federal Bureau of Investigation ("FBI"), the Immirgation and Naturalization Service ("INS"), and other defendants charging discrimination and other unlawful conduct arising out of his employment as an assistant professor and later lecturer at Rutgers. Presently before the court is the motion of the United States of America to dismiss plaintiff's complaint against the FBI and the INS for lack of subject matter jurisdiction, or in the alternative, for failure to state a claim. Plaintiff has filed no opposition to the motion.

The FBI and INS are agencies of the

Justice Department, an executive department of the United States. Any judgment against these defendants would be satisfied by the United States Treasury. The United States is therefore the real party in interest in this lawsuit. see 14 C. Wright, A. Miller & E. Cooper, Federal Practice and Procedure S 3655 (1985). Consequently, the doctirne of sovereign immunity bars any suit against those agencies unless Congress has specifically consented to waive that immunity. see United States v. Sherwood, 312 u.s. 584 (1941); see also 14 C. Wright, supra, S 3654, at 189-90. Plaintiff has failed to plead any relevant Congressional waiver of sovereign immunity, and the court's own research has found no such waiver. The court therefore lacks subject matter jrisdiction over the claims against the FBI and INS. The court will grant the motion of the United States and will

dismiss plaintiff's complaint against the FBI and INS for lack of subject matter jurisdiction.

An appropriate order will be entered.

(signed)

Stanley S. Brotman

United States District Judge

DATED : March 31,1989

A P P E N D I X D :

Magistrate's Order / DSI 149 / 12-23-1989, halting discovery of facts in the face of plt'f's several alerts that discovery until then was characterized by blatant unlawfulness: [Ref : DSI 149, page 1; 12-23-1989] :

"Please be advised that the discovery motion filed by pro se plaintiff Dr. Jay Bright, and the cross-motion filed by defendant AAUP eturnable December 15,1989 shall be STAYED pending determination of plaintiff's recent appeal to the Third Circuit court of Appeals, the notice of

appeal having been filed with Clerk of this court on Novembver 29, 1989. The filing of a notice of appeal results in a stay of proceedings until such time as the matter is returned to the District Court from the Court of Appeals. Plaintiff's discovery motion, along with the August 25, 1989 motion to compel compliance with subpoenas served upon various governmental agencies and defendant AAUP's cross-motion, shall be made returnable for motion day after notice of resolution of the pending appeal is received by the court."

A P P E N D I X E :

Dist Judge's <u>minutes</u> [in lieu of an opinion or order] entered on the Docket Sheet as D S I # 165 on 2-23-1990, and reading : " Minutes of 2/16/90, filed 2/16/90, see #'s 140, 141, 148, 156, 158 decision reserved. Hearing on pltf's appeal of Mag.'s order staying

discovery, decision reserved; and pltif's application for appointment of counsel denied. [Brotman]"

> > > >

APPENDIX F : Opinion of the U.S.District Judge, entered February 20,1991, (granting summary judgment motions of defendants Rutgers University and Rutgers Council of AAUP Chapters) :

"BROTMAN, District Judge,

Presently before the court are the motions for summary judgmnent by defendants, Rutgers, the State University, and Rutgers Council of AAUP Chapters. Plaintiff's complaint alleges discrimination and violations of his civil rights while employed as an Assistant Professor of Finance at Rutgers University. Plaintiff seeks monetary damages, as well as reinstatement by Rutgers as a Full Professor and as Director of the Graduate Business Program. For the reasons stated below, the court hereby grants the motions for summary judgment of defendants Rutgers, the State University and Rutgers

Council of AAUP Champters.

I. FACTS AND PROCEDURE - On September 21, 1988, plaintiff filed a complaint naming as defendants, Rutgers, the State University ("Rutgers"); Rutgers Council of AAUP Chapters, the facdulty union at Rutgers ("AAUP"); the Federal Bureau of Investigation; the New Jersey Division of State Police, and the Immigration and Naturalization Service. Although not entirely clear on its face, the complaint appears to allege violations of plaintiff's civil rights under 42 USC S 1981 (equal rights under the law); S 1983 (civil action for deprivation of rights); S 1985(2) (conspiracy to interfere with civil rights; S 1986 (action for neglect to prevent violation of civil rights); S 2000e-2(a) (unlawful employment proactices) and S 2000e-3(a) (other employment practices).

Jay Bright is a naturalized citizen of the United States and of Indian origin. After earning his Ph.D. degree from the University of Houston in Texas in 1969, he spent several years working as a professor, in both the United States and India.

The specific allegations set forth by Bright concern the period from July 1,1984 to June 30,1988, during which plaintiff was employed by Rutgers as an Assistant professor of Finance at the Camden campus. In the Complaint, it is not clear what type of discrimination plaintiff alleges. Plaintiff's discrimination claim is based on his view that at his time of hire in 1984, (1) his academic rank of Assitant Professor was an inappropriate "entry level" position; (2) his starting salary of $30,140 per year was $8,000 - $10,000 below any others in his department and (3) his office assignment was on a sepa-

rate floor from the offices of all the Ph.D.'s in his department. Plaintiff further alleges that the University administration subjected him to a "systematic conspiracy and campaign to malign, defame and discredit him" and a conspiracy to abridge his civil rights.

Plaintiff also alleges that the AAUP knowingly presented his discrimination claims to the administration late, resulting in the claims being rejected as untimely filed. He also claims that the matter was put before an unqualified arbitrator, the New Jersey Board of Mediation, as it allegedly hears complaints against "private" employers and therefore should not have heard a complalint agaisnt Rutgers, a state institution. Moreover, plaintff claims that Rutgers colluded with the AAUP, the Federal Bureau of Investigation ("FBI"), the Immigraiton and Naturalization Service ("INS"), the

U.S. Department of Education, other state and federal agencies and community organizations, to interfere with his civil rights.

As a result of these alleged activities, Bright claims his career and community standing have suffered irreparable harm; that he has been defamed, maligned, ostracized and humiliated, and that he has been blocked from suitable employment. He also claims pain and suffering. As relief, plaintff seeks to be reinstated by Rutgers University as a Full Professor and as Director of the Graduate Business Program, as well as compensation for damages.

On March 22, 1989, an order was filed dismissing plaintiff's complaint against the New Jersey Dividison of State Police. On April 5,1989, the complaint against the FBI and the INS were dismissed for lack of subject matter jurisdiction.

Thereafter, plaintiff filed various motions with the court seeking additional discovery, which were temporarily stayed in an order dated December 13,1989.

The AAUP and Rutgers have both filed separate motions for summary judgment. Plaintiff responded in opposition to the AAUP's motion for summary fudgment by arguing that it was untimely filed.[1]

He has also requested a continuacne pursuant to Fed. R. Civ. P. 56(f), to obtalin further discovery[2].

However, based on the facts presented inthis case, the court finds plaintiff's position to be without merit.

1In opposition to the AAUP motion, plaintiff refers to an order dated October 20,1989 which set the deadline for defendant to file summary judgment, "fourteen(14) days after the date on whcih plaintiff's deposition transcripts are either corrected and certified by plaintiff or deemed final by operation of the rules of procedure and orders of this court." Plaintiff then notes that an order dated September 21,1989 instructed plaintff to review, sign or make desired changes in the deposition transcripts within a certain period of days, otherwise

they would be deemed usable as though fully signed. Plaintiff petitioned and was granted stay of this order pending appeal on october 13,1989. This order stated that if affirmed on appeal, plaintiff wuld have ten(10) days from the date of affirmance in which to review the transcripts. In an order filed october 30,1989, the order was affirmed. On December 1,1989 the defendant filed its motion for summary judgment, which according to plaintiff's timetable, whould have filed November 23,1989. Plaintiff, however,has failed to show any prejudice due to this short delay, and in light of the fact that plaintiff caused the delay by his own persistent refusal to review the transcripts, this court hereby grants the defendant, AAUP, leave to file its summary judgment motion late.

2 Plaintiff relies on vague assertions regarding the nature of the facts to be discovered in his requests. Defendants have already responded to and substantially complied with, plaintiff's request for answers to interrogatories and productin of documents. Despite all of the information with which he has been presented, plaintiff fails to state what any further discovery might disclose, or what facts he is seeking, or how they would overcome defendants motions for summary judgment. Plaintiff relies only on broad conclusory allegations, and for this reason, the court must deny plaintiff's outstanidng discovery motions and application for continuance.

II. DISCUSSION :

The standard for granting summary judgment is a stringent one. Fed.

R. Civ. P. 56(c) provides that summary judgment may be granted only when the materials of record "show that there is no genuine issue as to any material fact and that the moving party is entitled to judment as a matter of law." Hersh v. Allen Products Co., Inc. 789 F.2d 230, 232 (3d Cir 1986); Lang v. New York Life Insurance co., 721 F2d 118 (3d Cir. 1983). The threshhold inquiry is whether there are "any genuine factual issues that properly can be resolved only by a finder of fact because they may reasonably be resolved in favor of either party." Anderson v. Liberty Lobby, inc. 477 U.S. 242, 250 (1986).

Once the moving party has carried its burden of establishing the absence of a genuine issue of material fact, "its opponent must do more thatn simply show that there is some metaphysical doubt as to the material facts." Matsushita Elec.

Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986). Thus, if the movant's evidence is merely "colorable" or is "not significantly probative," the court may grant summary judgment. Anderson, 477 U.S. at 249-50. Moreover, the Supreme Court has held that:

[T]he plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which the party will bear the burden of proof at trial. In such a situation, there can be "no genuine issue as to any material fact,"since a complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial. Celotex Corp. v. Catrett, 477 U.S. 317, 322-323 (1946).

A. Statute of Limitations

Based on the facts presented in this case, both Rutgers and the AAUP argue thnat summary juedgment must be granted due to the expiration of the applicable statute of limitations under SS 1981, 1983, 1985, 1986, 1988 and Title VII claims.For claims brought pursuant to 42 U.S.C. S 1988, the federal courts must refer to state statutes of limitations when federal law provides no rule of decision in cases under SS 1981,1985, and 1986. Board of Regents v. Tomaino, 446 U.S. 478, 484 (1980); Robertson v. Wegmann, 436 U.S. 584, 590)1978). In S 1983 actions, the Supreme Court has held that the applicable limitations period is the same as the limitations period for a personal injury claim in the state where the alleged wrong occured. Owens v. Okure, 488 U.S. 235 (1989); Goodman v. Lukens Steel, 482 U.S. 656 (1987); Wilson v.

Garcia, 471 U.S. 261(1985). In New Jersey, the two year personal injury statute of limitations provided in N.J.S.A. 2A:15-2 has held applicable to SS 1981, 1983 and 1985 actions. Cito v. Bridgewater Township Police Department. 892 F.2d 23 (3d Cir. 1989). With respect to claims under S 1986, the statute itself provides that "no action under provision of this section shall be sustained which is not commenced within one year after the cause of action has accrued."

1. Claims Against Rutgers, The State University :

In assessing the timeliness of plaintiff's claims, it is important to determine when the limitations perios began to run. The basis of plaintiff's complaint against Rutgers involving his assigned rank, salary and office assignment occured in July,1 1984 when Bright was hired. Moreover, at his deposition, plaintiff

expressly stated he believed even at the time he was hired that Rutgers was discriminating against him. Bright testified that he accepted the position believing that he could convince others at the University to remedy the discrimination. Based on plaintiff's own admissions, this court finds that the cause of action accrued, and the limitations period began to run in July, 1984 when he was assigned his position, rank, salary and had received his office assignment. More importantly, by July, 1984, plaintiff had formed the belief in his mind that he was being discriminated against. As the statute of limitations for actions brought pursuant to SS 1981, 1983, and 1985 is two years, and the statute of limitation for actions under S 1986 is one year, and this action was not initiated until September, 1988, plaintiff's claims under these statutes are barred by the applicable

statute of limitations.

Plaintiff also alleges violations of Title VII in his complaint. Specifically, he refers to 42 USC SS 2000e-2(a) and 2000e-3(a). Under these sections, the filing of a timely charge of discrimination with the Equal Emplyment Opportunity Commission ("EEOC") is required before an action may be maintained. Alexander v. Gardner-Denver Co., 415 U.S. 36, 47 (1974); McDonnell Douglas v. Green, 411 U.S. 792, 798 (1973).

The time in which a party must file a charge of discrimination with the EEOC is set forth in S 2000e-5(e), which states that "[a) charge under this section shall be filed within one hundred eighty days after the alleged unlawful employment practice occurred..." With respect to plaintiff's claims based on his academic rank, salary and office asignment, plaintiff has failed to meet this requrement.

Plaintiff's first charge of discrimination was filed with the EEOC on Noverber 17,1985. As discussed above, Bright's own deposition testimony establishes that he believed he was being discriminated against by the University when he was hired in Jyly, 1984, and all of the alleged discriminatory conduct was complete at the time he received his assigned rank, salary and office assignm,ent. Therefore, the actions complained of occurred well before the 180-days preceding the filing of discrimination on November 17,1985. This court finds that plaintiff's claims based on Title VII are also time barred.

2. Claims Against Rutgers Council of AAUP Chapters

As examined, the applicable statute of limitations is two years for plaintiff's claims based on SS 1981, 1983 and 1985 and one year for his S 1986 claims. In his complaint, Bright alleges that the AAUP

was negligent in presenting his employment grievances in an untimely manner to the administration.

Plaintiff initially contacted the AAUP with his problems early in 1985, although he never characterized them as "discrimination" until october, 1985. In May and June of 1986, plaintiff advised the AAUP that its actions in failing to represent him with respect to his salary and rank claims had harmed him. In June, 1986, after his grievance had been deemed untimely by the University, he threatened to sue the AAUP for its actions and demanded damages. The Complaint in this action was not filed until September 21,1988, more than two years after plaintiff had explicitly accused the AAUP of the very misconduct charged in the Complaint.

Under Title VII, plaintiif is required to file a charge with the EEOC before proceeding with an action. In this case,

Bright never filed an EEOC charge aginst the AAUP. Normally, the failure to file an EEOC claim against a party would bar plaintiff's claim, however, in his deposition, plainitiff stated that he did not file a charge against the AAUP because he believed that the University administration and the union worked "in tandem" and the union had no separate existence without the University. Even assuming that the University and the AAUP did work in tandem, and that the court could treat plaitiff's claim against Rutgers as a claim agailnst the AAUP, as discussed above, plaintiff filed his EEOC charges agsinst Rutgers after the statute of limitations expired. Hence, plaintiff's Title VII claims against the AAUP are time barred.

As all of plaintiff's claims are time barred, the court does not need to address defendant's other arguments for summary

judgment.

III. CONCLUSION

For the above stated reasons, the court hereby grants the motions for summary judgment in favor of defendants, Rutgers, the State University and Rutgers Council of AAUP Chapters.

An appropriate order wil be entered.

(Signed) Stanley S. Brotman

United States District Judge

Dated : February 15,1991

Appendix G1 :

Provisoions of the U.S. Constitution :

The Fourth Amendment to the U.S.Constitution :

The right of the-people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to

be searched, and the persons or things to be seized.

The Fifth Amemdment to the U.S.Constitution :

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time or War or public danger, nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use without just compensation.

The Fourteenth Amendment to the U.S. Constitution / Section 1 :

All persons born or naturalized in the

United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, libetry or property, without due process of law, nor deny to any person whthin its jurisdictin the equal protection of the laws.

APPENDIX G 2 :

Provisions of the Statutes involved :

FEDERAL RULES OF CIVIL PROCEDURE,

FED RULE OF CIV PROC,

RULE 1 :

"These rules govern the procedure in the United States district courts in all suits of a civil nature whether cognizable as cases at law or in equity or in admiralty, with the exceptions stated in

Rule 81. They shall be construed to secure the just, speedy, and inexpensive determination of every action." [Emphasis added].

R CIV PROC, RULE 12 [a] :

"Defenses and objections when and how presented - By pleading or motions - Motion for judgment on the Pleadings

(a) When Presented.

A defendant shall serve an answer within 20 days after the service of the summons and complaint upon that defendant, except when service is made under Rule 4(e) and a different time is prescribed in the order of court under the statute of the United States or in the statute or rule of court of the state...

FED R CIV PROC, RULE 33 :

"Interrogatories of parties

(a) Availablility; procedures for use .....Each interrogatory shall be answered separately and ful' in writing

under oath, unless it is objected to in which event the reasons for objection shall be stated in lieu of the answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. . . .

[emphasis added].

FED R CIV PROC, RULE 37 (a)(3) :

Evasive or Incomplete Answer.

For purposes of this subdivision an evasive or incomplete answer is to be treated as a failure to answer.

R CIV PROC, RULE 45 (b)

Subpoena. For Production of Documentary Evidence. A subpoena may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein; but the court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (1) quash or modify the

subpoena if it is unreasonable and oppressive or (2) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

FED R CIV PROC,

RULE 56 :

Summary Judgment.

(d) Case not fully adjudicated on Motion. If on motion under this rule judgment is not rendered upon- the whole case or for all the relief asked and a trial is necessary, the court at the hearing of motion, by examininig the pleadings and the evidence bvefore it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what matierial facts are actually and in good faith controverted. (emphasis added).

(f) When affidavits are unavailable. Should it appear from the affidavits of a party opposing the motion that the party cannot for reasons stated present by affidavit facts essential to justify the party's opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovcery to be had or may make such other order as is just.

RULE OF THE U.S.DIST.CT FOR THE DIST OF NEW JERSEY, RULE 12 (C) :

Motion Practice - Generally

"...No application will be heard unless an original and one copy of the moving papers and a brief prepared in accordance with General Rule 27 B or a statement that no brief is necessary and the reasons therefor, and proof or acknowledgment of service of the brief or statement and the moving papers on oppos-

ing counsel are received at the Clerk's office at the place of allocation of the case at least 24 days prior to the date noticed for argument. The brief shall not be attached to the moving papers, and shall note the date for argument on the cover page.

No argument in opposition to the application will be heard unless an original and one copy of an answering brief, specifying the date for argument on the cover page, or a statement
that no brief is necessary and the reasons therefor, with proof or acknoledgment of service thereof on opposing counsel, must be delivered to the Clerk's office at the place of allocation of the case at least 7 days prior to the date originally noticed for argument.

A P P E N D I X H :

Portions of the DIST CT COMPLAINT, which is Dist Ct Docket Sheet Item # 1 :

(Plaintiff filed his Complaint in the U.S. District Court for the District of New Jersey, on September 21,1988. The District Ct Complaint has forty-four (44) different Exhibits attached to it: portions of the Complaint appear immediately below)

"Summary of Complaint and Factual Background : Plaintiff was an employee of Rutgers University from July 1, 1984 to June 30,1988 employed as an Assistant Professor of Finance in the Faculty of Business Studies at the Camden campus.

Plaintiff earned his Ph.D. degree from the School of Business Administration of the University of Houston, Houston, Texas, in 1969, and worked as a professor

between 1969 and 1984 rising from an Assistant Professor in 1969 to a Full Professor and Director of a Graduate program in Business Management (Exhibit 1).

In July, 1984, Rutgers University employed him at the entry level position, an Assistant Professorship, and offered him a salary of $30,140 per academic year (Exhibit 2) which was about $10,000 below any other Ph.D. in his department (the employer has refused to supply facts needed (Exhibits 3 and 4); assigned plaintiff an office with a group of non-Ph.D.'s in the department and away and on a separate floor from the main floor of the department where all the Ph.D.'s in the dept. were housed - and this despite the fact that several non-minority non-Ph.D.'s in the dept. were housed with the Ph.D.'s (Exh 5).

When plaintiff tried to reason with

the University administration, he met with hostility, which escalated into harassment and later brutality and a systematic conspiracy and campaign to malign, defame and discredit him and a conspiracy to abridge his civil rights (Exhibits 6,7, and 8). The university administration ignored plaintiff's pleas for a compus-wide committee of non-partisan professors. The plaintiff took his grievance before the faculty union who (knowingly) presented his matter to the administration (late) and the latter rejected it as untimely filed (Exh 9). Fearing state-wide implications, the university intensified concerted effors involving numerous parties on and off campus to malign, defame and discredit plaintiff and, he is led to believe, "Federalized" the matter with defendants' and others' influence to the plaintiff's detriment. The union had filed the

grievance late although it had been alerted by plaintiff at an early stage initially verbally and later in writing (Exh 7). Surely, the union knew the rules and procedures well - it has worked hand in hand with the same university administration for nearly twelve years. Subsequently, the union and the university knowingly put the matter before an unqualified arbitrator - one in the New Jersey State Board of Mediation. Both the university and the union knew that the said Board hears complaints against "private" employers (Exh 10), and that the New Jersey Board should not hear complaints against a New Jersey institution (Rutgers), The New Jersey State Board of Mediation is equally at fault as this and other information (presented later in this complaint) leads plaintiff to believe. Furthermore, the plaintiff is led to believe that the university and

the union - with the New Jersey Mediation Board's complicity - have engaged in such practices in the case of other Rutgers professors. These and a number of other concerned individuals on and off campus indicated to the plaintiff that they will testify in his behalf. Fraud, collusion and conspiracy between the university and the union to interfere with plaintiff's civil righs went much further : at no time has plaintiff met or seen or heard from the arbritrator, nor despite written request did the union clear with the plaintiff its brief to arbritator, nor have there been any hearings held by the arbritrator where plaintiff could give testimony or could have professors, students and others testify at the hearings, nor has plaintiff ever been supplied with any rulings issued by the arbritrator , nor has the arbitrator himself sent the plaintiff

anything despite repeated written requests, while the parties carried on their deceit, fraud and criminality (Exhs 11,12,13 14, and 15).

On November 11,1985, plaintiff filed a charge against the employer with the Equal Employment Opportunity Commission (EEOC) at its field office in Philadelphia, Pennsylvania and four subsequent charges on may 8,1986, January 30,1987, March 18,1987 and July 22,1987; and kept the EEOC informed of employer's blatant, brutal and massive retaliation against plaintiff (Exhibits 16a through 16f, and others). The EEOC gave increasing indications of repeatedly ignoring documented evidence of employesr's unlawful discrimination and retaliation against the plainitff, while the employer stepped up their unlawfulness (Exhs 17a to 26, and others). There were strong and repeated indications of

EEOC personnel being coerced and indimidated by other agencies of the United States Government. Plaintiff is led to believe that among others, U.S.Dept. of Justice's Federal Bureau of Investigation, Immigrationm and Naturalization Service; and apart from them the U.S.Dept. Education are involved. . .

Rutgers University, in collusion and conspiracy with parties on and off compus, built fraudulent and fraudulently contrived dossiers on plaintiff, and latter are denied plaintiff. Todate, Rutgers has denied plaintiff copies of his "complete and so certfied" files (Exhs 25a to 25d, and others).

Rutgers University and their Federal Government and other collaborators have rendered plaintiff unable to find a job anywhere in the country, despite initial very strong interest shown by numerous prospective employers across the country.

In such activity Rutgers colluded with national educational organizations as well as with Federal agencies who actively worked to plaintiff's detriment.

> > > >

A P P E N D I X I :

Plaintiff's motion at Dist Ct Docket Sheet Item [D S I] # 16 entered 12-23-1988 initiating Discovery proceedings . In this document, Motion # 3 / therein p.1, reads as follows :

"Motion No. 3" - "The plaintiff further moves this honorable court to order each one of the defendants in this case to urgently mail to the plaintiff any and all file or files they may have on or relating to the plaintiff, certifying these as complete; as without these files the process of Discovery so essential to this (as any) law suit cannot even be meaningfully begun. NOTE: please see in this regard, as a case in point, paragraph 9 on page 3 of the Complaint. Furthermore, plaintiff is led to believe that like Rutgers University, other defendants built fraudulent dossiers on the plaintiff.

Furthermore, the plaintiff is concerned that nay "normal" reauest for complete and so certified files to the five defendants will likely inordinately delay and irrepa-rable and profoundly damage and injur full, proper and timely Discovery - and justice - in this case."

(PLAINTIFF'S CONTEXTUAL NOTE : Above motion of plaintiff, for production of documents, was completely ignored by both New Jersey and United States. These two immediately cross-moved to dismiss, pltf opposed the cross-motions, but the Dist Judge went ahead and dismissed complaints against New Jersey and the United States. The remaining defendants, Rutgers and the faculty union, evaded the bulk of the discovery, resorted to ongoing, repeated and blatant fraud in discovery; plaintiff repeatedly alerted both the District and the Appellate courts; the University and the paras: : organization - the faculty

union - moved to dismiss, and the District Judge obliged. The U.S. Court of Appeals, in the face of plaintiff's profuse and meticulous elaboration of said unlawfulness, endorsed the Dist Ct proceedings both [i] in toto and [ii] sans opinion.)

A P P E N D I X J : PORTIONS OF OTHER DISTRICT COURT DOCUMENTS :

A P P E N D I X J-1 :

Examples of Pltf's Interrogatories and Answers provided by Rutgers University : (These were made part of the Dist Ct record by me at Docket Sheet Item (D.S.I.) # 107 / its page 1.) :

PLEASE NOTE :

- Rutgers totally evaded answers to 41 of the 42 interrogatories posed, violating Federal Rules of Civil Procedure #s 33 and 37(a)(3) which are enunciated at APPENDIX G 2 .

- - - - - - - - - - - -

Int.1 : Set forth in a table form, for all full time teaching personnel in Rutgers University's Camden Campus academic unit once called Faculty of Business Studies (FBS), as on July 1, 1984 when plaintiff joined the university on his first yearly contract, the following information - Names of faculty members, highest academic degrees earned, academic ranks, academic year salaries, year in which highest academic degree was earned, and administrative position titles(where applicable) - Please attach on a separate sheet information in a tabular form as required)

Rutgers' Answer : See attached chart. Rutgers objects to disclosing the names of faculty members in this context and asserts that such information is irrelevant.

(Plaintiff's Contextual Note Here :

Attached was a table, with its caption illegible, data without names in an ex-

tremely tiny (micron) type-size, and forwarded with other answers, the entire set forwarded with a University oficial's signature not under oath, and bearing a fictitious and impossible date of September 5,1988 as the interrogatories were submitted in August of 1989 the Complaint itself having been filed on Sept. 21,1988. Furthermore, the plaintiff repeatedly alerted the Dist Ct that the data supplied by the University were fradulent. The plaintiff had alleged in the Complaint itself that all other Ph.D.s in his faculty were paid atleast $8, 000 to $10,000 per year more- see here Apdx H. Plaintiff petitioned the Dist Ct to compell Rutgers to provide full, lawful answers (to all forty-two interrogatories) at Dist Ct D.S.I. (Docket Sheet Item) #s 107, 120, and 140 among other citing numerous case law precedents, but Rutgers (and the Faculty Union) evaded the issue, the Dist

Magistrate and the Dist Judge halted Discovery, defendants cross moved to dismiss, and the Dist Judge obliged.)

Int. 6 : List the names and business addresses and telephone unmbers of persons on the Business Advisory Council or Executive Advisory Council or such committee or group of business executives from the Rutgers/Camden vicinity who have been an advising committe to the F B S (Faculty of Business Studies) administration at Rutgers/Camden for (a)1985; (b) 1987.

Rutgers' Answer : Rutgers objects to this interrogatory as irrelevant and unduly burdersome.

(Plaintiff's Contextual Note Here :

Plaintiff had observed and charged in the Dist Complaint -see Apdx H - that the University administration, faculty, and students (most graduate students were also full time employees in the local business community) had launched a systematic

compaign, in collaboration with the said Business Advisory Council and other groups, to fraudulently malign and defame and to discredit me, the plaintiff, pro se. Rutgers never provided information asked. As indicated in the para immediately above, I moved repeatedly citing voluminous case law to compel Discovery, the Magistrate and the Judge halted discovery, the defendants cross-moved to dismiss, the Judge obliged in the face of numerous other blatantly unlawful activities of Rutgers University and the Faculty Union (the Rutgers Council of AAUP Chapters,having first dismissed the U.S. and New Jersey who had not even responded to my initiation of Discovery (although my Complaint charged as well as documented litigable activity by the U.S. and New Jersey officials also) and had cross-moved to dismiss with the Judge obliging them).

Int. 10 (a) : Name all persons who took care of responding to inquiries from prospective employers whom I contacted for a position beginning with the academic year 1988-89 and in a separate list such information for the academic year 1989-90.

10(b) : Provide copies of all responses provided pursuant to item a above; and notes on all over-the-phone responses given pursuant to item a above.

Rutgers' Answer :

(a) 1988-89, Dean Rick Elam

1989-90, Acting Dean Milton Leontiades.

(b) Rutgers objects to this interrogatory as unduly burdensome and duplicative. Without waving its objection, Rutgers states that plaintiff has already received all documents relatling to him in the possession of the University which are not privileged.

(Plaintiff's Note : In the Complaint I

had charged that Rutgers had " blacklisted" me - see Apdx H , as a large number of prospective employers had shown a keen interest in hiring me when I talked to them on the 'phone and when I met them at professional meetings, and yet not one ever called again let alone invite me for an interview.

Rutgers had not forwarded to me any documents of any usefulness, nor did they ever do it - for this interrogatory or for any others. As I had done for other interrogatories, I moved to compel Discovery citing case law here again, but, as indicated in my notes relatilng to two interogatories in the two paragraphs immediately above, the Dist Ct ignored my motions to compel discovery for the University and the Faculty Union as it had done for the United States and New Jersey, halted Discovery, and granted defendants' dismissal cross- motions.

Int. 11 : Name the following : [a] Local govt. agencies and officials, [b] New Jersey govt. agencies and officals, and [c] U.S. Govt. agencies and officials, to whom the University provided information about me that can be said in any way to be unfavorable, or information describing me as an undesirable person in any way.

Rutgers' Answer : Rutgers objects to this interrogatory because the terms "unfavorable" and "undesirable person" are vague and ambiguous. Without waving the objection, Rutgers states that plaintiff has already received all documents relaeing to him in the possession of the University which ae not privileged.

(Plaintiff's Note : In my Complaint I had charged that Rutgers and the faculty union had maliciously and fraudulently maligned me to not only prospective employers and people I socially associated

with, but to the Governments of New Jersey and the United States.

For this interrogatory as for all 42 of them, Rutgers had neither sent me any papers of any usefulness, nor did they ever send me any at any time. The Dist Ct, as noted for other answers of Rutgers, ignored my motions to compel discovery - at D.S.I. #s 102, 107, 120, 140, 151, 153, and 167 - for Rutgers and the faculty union and for New Jersey and the United States. The Dist Ct halted discovery, and granted defendants' cross-motions to dismiss my complaints.)

Int. 12 : Pursuant to interrogatory 11 above, set forth, including copies of documents, the information provided, people involved, dates, etc.

Rutgers' Answer:

" See answer to interrogatory 11."

(Plaintiff's Note : As in the case of

other evasive and unlawful answers, Rutgers University - and the faculty union - were permitted by the Dist Ct here again to simply by-pass the Discovery of facts.)

Int. 16 :

(a) Did any university officials and/or their associates and/or agents at any time bring ny Complaints agasint the university to the attention of and/or discuss with elected public representatives (i) at the state level ? (ii) at the Federal level ?

Rutgers' Answer : Rutgers objects to this interrogatory because the terms "associates" and "agents" are vague and ambiguous. Without waiving its objections, Rutgers states that Provost Gordon never initiated contact with elected officials concerning the plaintiff nor participated in any discussions with elected officials concerning the plain-

tiff. further linformation to be supplied.

(Here again the answer is completely evasive. I had charged in the Complaint that Rutgers and the faculty union maliciously and fraudulently used the Government Apparatus at all levels - in addition to the Corporate A53 Apparatus - to destroy me economically as well socially. Rutgers never sent any information or documents later despite my subsequent motions to compel discovery - please see the list of Dist Ct Docket Sheet Items where I made motions to compel discovery at my notes vis-a-vis Interrogatory 11, supra in this same appendix).

Int. 17 : Pursuant to interrogatory 16 above, provide detailed inormation as to names, events, times, places and circumstances with respect to any and all of the following ,and provide any and all rele-

vant information and documents:

[a] Camden City police Dept.

[b] Camden County Prosecutor's office

[c] New Jersey Division of State Police

[d] The Federal Bureau of Investigation

[e] Immigration and Naturalization Servide

[f] Any and all Task Forces, State and/or Federal

[g] Elected public representatives at any and all levels

Please use separate sheets of paper; and append all documents here relevant.

Rutgers' Answer :

" See answer to interrogatory 16."

(PLAINTIFF"S CONTEXTUAL NOTE HERE :

Yet another unlawfully evasive answer since in the Complaint itself I had charged as well as appended initial indicative documents charging ongoing complicity among listed defendants.

PLEASE NOTE :

- All interrogatories, and answers by both the University and the faculty union, were made part of the Dist Ct record by me at Docket Sheet Item (D S I) # 107 / its page 1. Other motions to compel discovery include the D.S.I.'s listed supra in this Appendix Item).

IN THE BROADER CONTEXT :

- Unlawfulness in court proceedings vis-a-vis fraud in discovery proceedings is only one of several other unlawful activities involving the defendants Rutgers University, the faculty union(the Rutgers Council) , and defendant United States (with New Jersey officals' ongoing complicity).

PLEASE NOTE :

- Rutgers totally evaded answers to 41 of the 42 interrogatories posed, violating

Federal Rules of Civil Procedure #s 33 and 37(a)(3) which are enunciated at Apdx G 2 .

Appendix J-2 :

PORTIONS OF DIST CT DOCKET SHEET ITEM [DSI] # 102 [8-25-1989]

therein page 1 :

"The plaintiff, Dr. Jay B. Bright, moves this honorable court to compel [a] The Federal Bureau of Investigation of the U.S.Dept. of Justice, [b] Immigration and Naturalization Service of the U.S.D.Justice, [c] New Jersey Division of State police, and [d] New Jersey Dept. of Education to comply with subpoena commands per Rule 45 b of the Fed R Civ P sent well over ten (10) days ago which they have failed to comply with. Copies of the subpoenas sent and of plaintiff's proof of mailing these are attached herewith."

Appendix J-3 :

PORTIONS OF DIST CT D S I # 111 [9-20-1989],

Letter Opinion and Order of Magistrate/

p.6 :

"Regarding defendant AAUP's cross-motion requesting that the June 14 transcript be deemed usable for all purposes, it shall be denied at the present time. Dr. Bright will, instead, be given an additinal ten (1) days from the entry of this letter opinion and order to sign and return the June 14 transcript, or make any desired changes in accordance with the procedures outlined in Rule 30(e). I warn Dr. Bright that this does not give him license to make wholesale changes to the transcript. The purpose of the plaintiff's review and signature is to produce an "Errata" sheet, prepared by plaintiff, identifying the precise page and line for each desired change and indicating the

reason for each change, such as "miss-spelling" or "mistranscription".

Appendix J-4.1 :

PORTIONS OF DIST CT D S I # 113

9-26-1989 / page 1 therein, I prayed to the Dist Ct :

"Plaintiff should not be limited to simply preparing an errata sheet in correcting transcripts of depositions. Plaintiff has a right to make substantive changes in the transcripts of his depositions : Allen & Co. v. Occidental Petroleum Corp. 49 FRD 337 SDNY 1970 ; also Colin v. Thompson 16 FRD, 194 WD MO 1954."

Appendix J-4.2 :

QUOTATION FROM THE BOOK

DISCOVERY by

Haydock and Herr (Little, Brown & Co, 1983): pages 160, 161.

" Sec. 2.8.4 - Changes in the Record by the Deponent : Scope

A deponent can make the following changes in the record :

A. Whatever the deponent wants to change, as onlg as he or she has some reason.

B. Only those changes which correct a court reporter's errors

C. Only changes approved by the opposing counsel.

D. Only a change that decreases the speed from 45 rpm to 33 1/3 rpm.

The rules permit a deponent to do A : make any change in form and substance the deponent has reason to make - Rogers v. Roth, 477 F 2d 1154 (10 th Cir, 1973) . The other answers (alternatives above, i.e., B, C, and D) are incorrect. If B or C were correct, there would have to be a court hearing to determine whose error it is and what constitutes a minor versus a major change. The rules do not permit a deponent to edit or rewrite a record :

changes can be made but only if the deponent has some reason to make them.

Sec. 2.8.5 Changes in the Record by the deponent: Rationale

Reasons that would allow a deponent legitimately to make a change in the record include:

A. Any reason

B. Any reason

C. Any reason

A, B, and C are correct. The reasons do not have to be substantial, significant or persuasive; they may even be inadequate- DeSeversky v. Republic Aviation 2 FRD 113,115 (EDNY, 1941)."

Appendix J-5 :

PORTIONS OF DIST CT Docket Sheet Item 120(D.S.I. # 120) , therein page 3 :

"The plaintiff further petitions this honorable court to have the UNION provide good-faith answers to plaintiff's interrogatories ("ints"). In regard to

this particular defendant, plaintiff's motions, defendant's Answer to these (motions), and plantiff's Reply to the latterare now before this honorable court (at DSI #s 107, 112, 114, and 117). PLEASE NOTE THAT DSI # 107 CONTAINS Ints and Answers of both the defendats. THE PLAINTIFF ALSO petitions to have the UNIVERSITY provide good-faith answers to plaintiff's interrogatories (which from both defendants are attached to DSI # 107, q.v.). In this regard, the history is as follows : [i] plaintiff served his ints to the University on 7-31-1989 which was per rule; [ii] The University, instead of supplying goodfaith answers,sent plaintiff a set of papers - purported to be answers -signed not-under-oath by a universilty official not on the Camden Campus where plaintiff worked, bearing the fraudulent date 'Sept. 5,1988', and violating numerous

goodfaith as well as required procedures and wilfully evading providing information and hiding blatant unlawfulness (see plaintiff's motions, DSI # 107 and the elaboration which follows). . . . "

"While the plaintiff has already drawn the Hon. Court's attention to deficiencies in the University's answers to plaintiff's ints. in plaintiff's motions returnable OCT 6,1989, plaintiff hereinunder elaborates... (Plaintiff's Note Here : then follow interrogatory-by-interrogatory elaborations for 41 out of the total of a total of 42 interrogatories).

Appendix J-6 :

PORTIONS OF DIST CT DSI # 140 ;

therein page 1 :

" Motion No. 2 : The plaintiff further moves this honorable court to : [1] schedule rulings on defendants' motions for summary judgment, if any,

fourteen (14) days subsequent to, and [2] schedule the time-limt (the deadline) for the plaintiff to complete his portion of the Joint Final Pre-Trial Order fourteen days suvsequent to the finalization of the following two matters :

[a] the plaintiff's obtaining per Rules, good faith, and complete answers to his interrogatories to defendants, and

[b] plaintiff's right to make substantive changes in the transcripts of his deposition testmony - said right assured by , among other, Allen & Co. v. Occidental Petroleum Corpl, 49 FRD 337 SDNY 1970; and Colin v. Thompson 16 FRD 194 WD Mo 1954. ".

Appendix J-7 :

[From Dist Ct DSI 141 / 11-22-1989]

therein Page 1 :

"The Context and Plaintiff's Reasoning: This honorable court ruled on July 21,1989 [DSI 86 / p.4] that short of Rule 45 of

F R Civ P, plaintiff could not demand production of ducuments from (the by then) non-parties (FBI, INS, and New Jersey). Subsequently, plaintiff pursued with subpoenas the matter (copies at DSI 102), and not receiving documents as subpoenaed (the INS sent a file 'not on official stationery' and over a signature neither identified nor indentifiable and such unauthenticated papers going only upto 1974; the FBI sent no papers nor did they acknowledge receiving the subpoena; nor did the New Jersey State Govt. agencies send any files) plaintiff moved (DSI 102) this court to compel discovery. When this court did not rule on the matter, the plaintiff submitted a second petition (DSI 120 /p.4), but this court has not todate ruled on the matter. Plaintiff's present motion prays for an immediate order per motion above , as the matter is [i] overdue, and [ii] of

crucial and critical importance to the plaintiff vis-a-vis the very viablility of his complaint which alleges, among other, substntial and litigable involvement of local, state and federal governments with the present defendants and vice versa, as also [iii] the plaintiff's urgent need for his equal and just access to evidence in preparing his pleadings." [Ref: DSI 141, therein p.1]

Appendix J-8 :

Portions from Dist Ct Docket Sheet Item 148 / therein page 1 :

"Defendant Rutgers Council of AAUP Chapters (the Union) filed untimely, contrived, deceitful, and fraudulent set of papers (please see Exhibits 10a - 10e) including so-called 'affidavits', in violation of Local Rule 12(C) , further claiming this honorable court's unilateral and arbitrary complicity in permitting the violation of rules, but without any affi-

davit citing who, how and when in this court was involved. The union counsel also similarly filed a cross-motion that is untimely and is based on fraud, deceit and unlawfulness(see para 3.9 below), and the plaintiff hereby alerts this honorable court to said unlawfulness as well. Exhibit 3 bears no signature. Exh 4 is neither notarized nor signed." [Ref : DSI 148, p.1]

Appendix J-9 : Portions of DSI # 151, wherein pltf seeks FRCP 56(d) fact-finding (in addition to FRCP 56(f) continuance) and cries Ct is sounding "Death Knell" :

Dist Ct D S I # 151 / page 3 therein

" Even subsequent to the asked continuance and a subsequent affidavit from plaintiff in defense of said motion, this court itself, per Rule 56(d) may (then) take initiative as to (then) necessary determination of all the facts;

especially in view of plaintiff's ongoing and above stated concerns. Plaintiff has respectfully charged that material facts are being deliberately, maliciously, and unlawfully denied him by the defendants and by this court.

The consequences of denial of plaintiff's prayer for court orders requested may result, plaintiff pleads, in manifest injustice to the plaintiff; and in a de facto approval by this court of unlawfulness of the entities hereabove charged. Attached are Eleven (11) exhibits"

Appendix J-10 :

Portions of Dist Ct Docket Sheet Item 167 /

therein page 2 :

"The University's and the Union's ongoing evasion in providing per-rules, complete, and good-faith answers to plaintiff's ints. were brought to the court's attention : SEE

Docket Sheet Items as follows :

102, para 1.00

107, paragraphs 1.00, 2.00. NOTE ALSO : to this pleading [i.e., to D S I 107] are appended the answers to plaintiff's ints. received from the University and from the Union. This pleading was turned over to U.S. Mag. Hon. Simandle on SEP 11, 1989.

117, Para 1.03 in here the plaintiff describes the deficiences in the Union's answers to his ints.

120, para 7.02 Describes in detail the deficiencies in the University's answers to plaintiff's ints.

140, para 1.

141, para 1.0 Plaintiff moves for the second time to compel discovery of the United States and of New Jersey.

148, Para 2.02; Exhs 3 and 4 to said pleading

159, Paras 4.1 through 4.6 : Exhs A

and D.

Deficiencies in the Union's answers to plaintiff's interrogatories are at DCI # 117, page 2 of that pleading.

. . . . .

The Union's opposition papers in this regard consist of the following : An affidavit by counsel Reinhardt - Exh A1 through A5, attached : another affidavit by union emplyee Marketti - Exh B1, attached; and a DEC 1, 1989 letter-brief to U.S.Magistrate Hon. Simandle : Exhs C1 and C2 being its first and last pages, attached herewith, q.v..

As to the Reinhardt affidavit, see Exhs A1 through A5, attached: First, the "affidavit" itself is questionable in that the oath administered is by an attorney (not a notary public) neither identifies the attorney nor sets forth his/her particulars of admission to what bar and when. Nor is it clear if a duly admitted

attorney at law can lawfully administer oaths in New Jersey; Secondly, Exhs A3.1 and A3.2 are deceptively put toghther - the date on Exh A3.2 is different from that on Exh A3.1. Thirdly, Counsel Reinhardt stands challenged in that she had received, but does not acknowledge plaintiff's letter of NOV 24,1989 to her : SEE Exhs D1 and D2, attached. Counsel Reinhardt's studied deception and fraud lie in several places : first she feigns non-receipt of Exh D1, she is sworn by an unidentified person - Exh A1 - page 2; and thirdly, she lies about the matter also to U.S.Magistrate Hon. Simandle by signing her name neither recognizable nor legible - Exh C2. Note that Exh D1 is also discussed in DSI # 148 / its As to the Marketti affidavit - Exhs B1 and B2, attached : First, the "affidavit" is neither signed nor executed - see Exhs B1 and B2; and secondly, the papers are

not legally vouched for in that there is no signature of the counsel to the forwarding paper - SEE Exh B1."

[Ref : Dist Ct DSI # 167]

Appendix K :

PORTIONS OF PLTF-APLT'S C.A. MOTIONS

filed, C.A., 7-24-1991 :

"Motion #1 - The appellant respectfully moves this honorable court to (i) impose appropriate sanctions on the consel for defendant-appellee U.S. for her deception of the court, and for wilful breach of Due Process of Law, among other, and (ii) take immediate steps to have appointed a Special Prosecutor/Counsel to imvestigate and act upon what clearly invlolves falsification of court recoreds involving defendat-appellee U.S. and court personnel. (Argument for all the motions at para 2.0 et seq)".

" Motion # 4 - It isrespectfully

further moved that this court be alert and take steps vis-a-vis defendant-appellees Rutgers University and Rutgers Council of AAUP Chapters ("AAUP") having submitted documentation now part of the District Court record which is fraudulent, deceitful, contrived and misleading-by-design (Argument follows). " "Motion # 5 - It is respectfully further moved that this court be alert to and take steps vis-a-vis the presiding judge in the lower court knowingly, premediitatedly, unlawfully, and ongoingly permitted defedant-appellees Rutgers University and "AAUP" (Rutgers Council of AAUP Chapters) to file <u>with impunity</u> tampered evidence, fabricated evidence, falsely sworn papers, and papers that were clearly and blatantly fraudulent, dedeptive, and misleading-by-design. (Argument follows)". "M o t i o n # 7 - It is respectfully further moved that this court <u>peruse</u> <u>and</u> <u>pursue</u>

very recent as well as ongoing concerted unlawfulness among the Clerks and the Staff Attorneys of this court - setforth infra - and take appropriate steps to safeguard the interest of justice for all litigants.(Arguments for all motions are at para 2.00 ff)" [Ref : Pltf-Aplt's Brief to the U.S.C.A. / 3d Cir, therein pp. 7, 8, 10 - 14]

Appendix L : > > >

A p p e n d i x L-1 :

FIRST please see the "Statement of the case" in the Text of this Petition.

WHAT FOLLOWS IS AN ELABORATION.

THE C.A. HAD THE ENTIRE FOLLOWING ANALY SIS AND DOCUMENTATION BEFORE IT :

1.001 A NOTE AS TO THE A N N E X :

In the following paragraphs, reference is made to " Exhibits in the " Annex " : these are in the "Annex to Pltf-Aplt's C.A. Brief".

Since plaintiff had "proceeded on the original record" in the C.A. , an appendix was not required. "Proceeding on the record" made the entire Dist Ct record the pltf-aplt's appendix to his C.A. brief.

1.01 PROCEEDINGS IN THE LOWER COURT, 9-21-1988 to 2-15-1990 :

1.011 In the lower court, the District Judge saw, in 1988 when he perused my (the

Petitioner's) Complaint and its voluminous exhibits [44 exhibits are attached to the Comlaint itself and cross references, documents establishing a linkage between defendants U.S., New Jersey, and individuals at Rutgers University, Camden Campus, where I (the plaintiff-Petitioner) allegedly sustained injuries giving rise to the Federal law suit.

What followed, in essence, is that the Judge and the U.S.Magistrate (whose job as the assigned magistrate was to ensure full and lawful discovery) blocked my access to U.S.'s and New Jersey's dossiers on me, dismissed my complaints early-on against the U.S. and New Jersey, and then both proceeded to permit the principal defendant Rutgers University and its parasitic organization the Faculty Union (Rutgers Council of AAUP Chapters) to both evade discovery and tamper with/destroy evidence and blatantly and

ongoningly permit violation of rules and procedures of Federal Courts.

1.020 The lower court Judge's overall course of .pl 63action ,the following evidence affirms, is indicative of a design to aid and abet, and to cover up ongoing and blatant unlawfulness of (i) defendants Rutgers, the State University of New Jersey, and the Rutgers Council of AAUP Chapters (the faculty union) , and secondly (ii) listed defendants United States, and New Jersey. ~~Consider~~ in this regard the following:

1.021 I brought to the Judge's attention blatant fraud and wilful deceit of all concerned by both the defendants - the University and the Faculty Union- in my following filings:

- Dist Ct Docket Sheet Item (DSI) # 174 titled "Plaintiff's Affidavit Pursuant to His April 3,1990 Affidavit", its page 1, q.v., : Here Judge Brotman is accessory to a conspiracy with the counsel for defendant Rutgers University to unlawfully imply that he, the Judge

had somehow made, and approved, a motion to schedule oral arguments for the University's summary judgement motion. In reality there was no such motion made. See here paragraphs 2.1 and 2.2, Page 1 of said DSI (Docket Sheet Item) # 174 ;

- DSI # 173, titled "Plaintiff's Affidavit Again Alerting the Court that the Court Must Strictly observe Federal Laws and Established Court Procedures", q.v., : Here I have alerted the Court that the District Judge ongoingly and blatantly continues to be accessorty to downright unlawful activity and this with (i) defendants Rutgers University and the Faculty Union; and (ii) listed defendants United States and New Jersey; - See said DSI, Pages 2,3, and 4 (paras 1.1, 1.2, 2.0 ff, and 4.0);

- DSI 172 titled "Plaintiff's Affidavit and Letter-Memorandum to the Hon. Dist. Judge", q.v. : Here I have drawn the Judge's attention(and,the Magistrate's attention as well) to the

fact that defednats Rutgers University and the Faculty Union(i.e.,the Rutgers Council of AAUP Chapters) have unlawfully avoided full and truthful discovery, and have further resorted to fraud and deceit in the very limited discovery had; and that the Judge and the Magistrate have aided and abeted such. SEE HERE Pp 1,2, and 3 (paras 2.0, 4.0, 4.1 ,5.0 ,7.0 , 8.0, 10.0, 11.0) of said DSI.

1.022 ALSO PERUSE CAREFULLY, among other, DSI 169, its pages 1,2,and 4 (paras 4.1, 6.1, 7.1 and 7.2);

1.023 AT THIS POINT PERUSE ALSO DSI 148 its pages 1 and 2, paras 2.0 ff, 3.0 ff, as also para 4.0 et seq.

1.03 PREMEDITATED MISREPRESENTATION OF COURT RECORDS : The presiding Dist Ct Judge, furthermore, ongoingly, and wilfully was accessory to, and himself engaged in, fraudulent distortion of Court records as well. See here, among other, the following DSI's : 113, 114, pages 1,2 which is the Dist Judge's Opinion of

OCT 30,1989. Here again the Judge resorts to misrepresentation ; on page 3 the Judge fruadulently claims that I have somehow failed to show that Magistrate Simandle (not 'Judge' Simandle as the Dist Judge repeatedly misleads the reader) in his Order of Sept. 20,1989 (= DSI 111) is clearly in error - I did indeed demonstrate that the Magistrate has erred : see here (i) DSI 113 page 1, para 1.04. I have, indeed, quoted not one but two case-laws; (ii) Further, I have also shown that the Magistrate is in error of fact as well in that the Magistrate resorts to blatant fraud in claiming (in his Opnion and Order at DSI 111, page 1) that my complaint involves a question of tenure when in reality it does not : see DSI 113 its page 1, para 1.02.

1.053 IN ESSENCE, defendant Rutgers Uiversity, even before I filed the Complaint in the Dist. Court,and as early as 1984 when I joined the University, through ongoing contacts and politicians at the local, state and Federal

level, got involved,among others, State and Federal prosecutors (SEE HERE ALSO **D S I 1**, its Exh 36,among others) and further got numerous groups in and out of the University involved to fraudulently build a malignant dossier on me in conspiracy with groups within and out of Rutgers University and with a blatant Govt.-Corporate-communities-interest groups conspiracy.

See here my ANSWERS to Rutgers University's interrogatories # s: 8,9,10A(which also includes a schematic diagram), et seq. attached to DSI 98); as also pages 3,4, and 5 (paras 8 ,9, 12 and 13, among others,of DSI 1 (the Dist Ct Complaint) its own 44 Exhibits being attached to it.).

THE PROSECUTORS THEN OBTAINED COURT ORDERS TO FURTHER ABRIDGE MY CONSTITUTIONAL RIGHTS, giving the prosecutors and surrounding townships/vigilante groups additional and ongoing license to fraudulently add to and to perpetuate the contrived dossiers on me.

1.054 The second of a total of two

U.S.Magistrates, not assigned to my case, played a very important part in the massive fraud pervading this case, along side the trial Judge and assigned Magistrate Simandle : Examine here first DSI 1 / Exh 29, then that DSI's Exh 30, then Exhs 28, 27, 26, 25.1, 25-its paras 4 to 6, then 24,23, 22, 21, 10, 10A, 10.1-10.32. Next peruse DSI 1 : its page 2, para 8 and its Exhs 28, 30,31 and 36; and note how Rosen resorts unlawfulness in spelling my name "Brights" - twice in that document - to get my file misfiled! Now examine Exh 29 to D S I # 1.

1.055 AS TO THE INVOLVEMENT OF THE ASST. U.S.ATTY IN CHARGE AT CAMDEN, NEW JERSEY, see DSI 1 / page 3, para 8, and its Exhs 30 and 36).

In regard to the County Prosecutor's (District Attorney's) cover-up and tacit ongoing involvement, examine DSI 1, page 2, para 8; and then Exhs 27 and 33 of said DSI.

1.0551 Turning at this point to the

Annex filed with this brief, examine in this context, in the "Annex": Exhs 33, 32, 31, 30, 29, 28, 27, 26, 25, 10, 10A, and 10.1-10.32 Now refer to Exhs 32, 31, 30, 29, 28, 27, 26, 25.1, 25, 24, 23, 22, 21, 10. FURTHER, TURN TO (i) Exh 25 - its paras 4, 5, and 6; and (ii) Exh 8, all of its p.1 These further describe and document blatant criminal conspiracy involving the Judiciary and the Executive Branches of the U.S. and an oppressive, brutal and criminal police state apparatus.

1.06 Defendant-Appellees U.S. and New Jersey launched a ruthless campaign to discredit me (the plaintiff-appellant) throughout the County, the State, the U.S. and even in India where I was born, latter through blatantly and ongoingly opening,diverting, and even fabricating my mail to and from India. Local police depts and "neighborhood watch" groups were set after me with a vigilante flavor - neighbors, school personnel where our U.S. born children study; shopkeepers, local banks - all were (and

continue to be) invlolved to physically, socially and otherwise destroy me and my wife and our (U.S. born) two teenage children; the additional motive being to fabricate "evidence" and "witnesses" to be used against me if and when there is a trial.

Such activity continues todate unabated. Defendant U.S. working hand in hand with Rutgers officials and through U.S. agencies/their cohorts, among other things, alarmed all prospective employers across the country. Rutgers University was equally and primarily involved in this - so the employers I contacted over the telephone and in person (at professional conventions) were told malicious stories about me, so that I was and continue to be black-listed. Fact-finding about this was evaded by Rutgers- para 14.17.051 below.

1.0601 Defendant U.S., with the active and knowingly unlawful and brow-beaten cooperation of any and all Indians / Indian-Americans in New Jersey, Philadelphia area, the U.S, and in

India (where I was born) I contacted; built fraudulent dossiers on me.

They even got involved a large number of Indians here and abroad who "may" know of me. These tactics so chilled the Indian community that they told me that they avoided me in extreme fear of the governmental apparatus.

1.061 Defendant U.S.

even went to the extent of having my mail fabricated (see here C.A. 90 - 5001, its pages 2 - 5 / paras 1.4, 3.2, 3.3, 3.4,3.6, 3.11, 3,12, and 4.6.

1.0611 Now please peruse in the ANNEX filed with this brief, said Annex's Exh 25, its paragraphs 4, 5, 6., and then the Annex's Exh 8, all of its page 1;

1.0612 At this point please turn to C.A. 90 - 5001 , its pages 2-5 / paras 1.3, 1.4, 3.2, 3.4,3.6, 3.10.

The blatant and unabashed objective was and still is to perpetuate fraudulently the fraudulently built dosssiers on me ;

1.062 THE DIST JUDGE covered up for all of latter by (i) blocking full and lawful discovery including denial of my access to dossiers on me, (ii) dismissing early on defendats U.S. and New Jersey, and facilitating the U.S.-State- Corporate-Communities Groups ongoing brutality and criminality, and the perpetuation of fraudulently built malignant dossiers on me; as well as to tacitly approve my and my family's ongoing subjection to brutality and atrocities of a vigilante environment, in addition to other defendants' blatant unlawfulness.

1.07 Furthermore, (i) In DSI 172 , its para 12.0 (page 3) I alert the Dist Judge that listed defendants United States and New Jersey also have evaded discovery; and this is of extraordinary significance in view of my ongoing concerns and repeated pleas for justice and for protection against being abused and brutalized at the hands of the United States (and the Federal-State-local) apparatus, the latter also

involving townships and vigilante groups around and including Collingswood, New Jersey, where I and my family live, but extending across the country as well as overseas. In DSI 1 - its para 7, line 16 et seq - I drew Judge Brotman's attention to a conspiracy between the University, the Faculty Union and the State ofNew Jersey to abridge my civil rights.Further, in DSI 159 - its Exhs G1 and G2- I even supplied him with the specific statute they had violated. Yet Judge Brotman failed to take action against the defendants' crimes in court proceedings; (ii) The University and the Union commited additional unlawfulness in the following: DSI 1, its Exh 10; and DSI 159, its pages 1-3, paras 4.1, 4.2, 4.5, and 5.2. The Dist Judge covered it up by looking the other way. (iii) The University's unlawfulness was also covered up at DSI 171, its page 2,

para 5, line 8, et seq, and Exhs 1 & 2 there. (iv) Also covered up were documented unlawfulness brought before the the Dist Judge in

the following DSI's:

98 (page 1, para 1.01),

102 (page 1),

107 (pages 1-3, paras 1.00,2.00,
and 9.0),

117 (page 1, para 1.03),

120 (page 2, para 7.02),

141 (page 1, para 1.0),

148 (page 1, paras 2.0 et seq,
2.02,2.03,3.3,3.4,3.5,3.6,3.7,
3.8,3.9,4.00,

156 (page 2, para 6.0),

159 (pages 1 and 2, paras 2.1,4.0
ff),

167 (pages 1,2 paras 1.1,1.2,1.3
ff,2.2,2.3,2.4),

169 (pages 1,2 paras 4.1,6.1) , q.v.

> > >

1.08 WHAT IS MORE , the Dist Judge permitted ongoing and brutal violation of my Constitutional rights as a U.S. citizen - including but not limited to the right to untampered and unfabricated postal service.

See here : (a) Annex Exh 25, its paras 3 to 6, and Exh 25.1 ; (b) C.A. 90 - 5001 its pages 2-4, paras 1.4, 3.2, 3.4, 3.6, 3.8, 3.11, 3.12, and 4.6; and (c) C.A. 90 - 5001 its page 1, para 1.4.

1.09 Fraudulent submissions by the dozen filed by both the University and the Union elaborated on at great length in the present complaint, and the pro-clivity of the defendants to file papers with the judge rather than through the Clerk,give rise to serious questions.

10 THE DIST JUDGE FURTHER AND ONGOINGLY misrepresented the

docket and abused the Federal Court System by again wilfully distorting yet another motion he ruled on. Now, in DSI 114 , q.v., its page 1/ para 2.01, I charge ongoing unlawfulness in the Dist. Court by citing particulars as to the Magistrate's granting blatantly unlawful favors to a defendant. The Judge, in responding to my repeated complaints and cries for fairness, distorted my motion - see DSI 128, page 2, its last para. In reality, the Magistrate had, among other things, granted EX PARTE favors to the Union; the Judge ignores said charge in his Order at DSI 128, page 1.

101 Covered up was yet another court related fraud, commited by Rutgers University, the principal defendant.

Now, in my complaint I have charged that the University, among other thiings, paid me a salary eight to ten thousand dollars

below any other Ph.D. in my faculty division - the Faculty of Business Studies - and further that the University refused to provide data on salaries. (See DSI 1,page 2, its para 6). The first question I asked the University in my Interrogatories was to provide said data on salaries.

The University defrauded all by providing fraudulent salary data, providing no names of faculty (though asked),and rendering the caption ofthe salary table illegible The University's Answers to my interrogatories are attached to DSI 107. I alerted the Court - see DSI 169,page 2, its para 6.1. Furthermore, in submitting the fraudulent data - and both the University and the Union have lied profusely in answering the interrogatories - the University officials have compounded the fraud by either not signing the documents, or not getting them notarized, or signing

with an impossible date SEE HERE (i) DSI 107 , pages 1,2 paras 1.1 , 1.03; 2.01,3.00, and9.0; (ii) DSI 98 , page 1, para 1.01(c); and (iii) DSI 93 ,page 1, para 1.03.

102 The Judge further aided and abeted ongoing unlawfulness by defendant United States : In my Complaint - DSI 1 - filed September 21, 1998, in its page 2, para 7 lines 8 et seq and further in its para 17.5, q.v.,I began drawing the Dist Judge's attention to my very serious concerns regarding defendant United States' ongoing resort to fraud and conspiracy in building and perpetuaing fraudulent dossiers on me and violation of my constitutional rights - SEE DSI'S 16/ page 1, paras 2.0 and 3.0; DSI 38/ page 1, paras 3.01 and 3.02; and 40/para 1(3).

1.1021 As a Federal Judge, the presiding judge by law perused my Complaint and alert as well as U.S.'s dossiers on

me, including my charges of defendant U.S.'s ongoing fraud including my 4-1-1986 letter to then Asst. U.S.Atty in charge - peruse in the ANNEX the annex's Exh 31 first; then peruse the ongoing fraud of defendants U.S.in the Annex's Exhs 25 t h r o u g h 33). Said (previous) Asst U.S.Atty in charge was alarmed as to the fraudulent nature of the papers attached to Annex Exh 31. Note also in the latter exhibit that the bank statement is designed to commit a"fraud within a fraud" : the fraudulant entry of $5,000 is made further to look in a subsequent column inthe same statement like $500,000 by the bank in question , with fraudulent intent by not using a decimal point to separate dollars from cents(= last two zeros).

Same is repeated in a different column on the same page by making $10,000 look like $100,000 in the same statement.

AND THIS IS NOT AN ISOLATED EVENT EITHER: similar unlawful mischief was carried at all banks - see Exh 21, attached (i.e., in the Annex to the C.A. Brief) and just a second of numerous examples.

At Rutgers University, activity involving Govt - University - Corporate - Students - Vigilante Groups was repeated on a monstrous scale.

Soon said (previous) Asst U.S. Atty quit the U.S.Govt. and went into private practice and still is in the Southern New Jersey area.

)211 The U.S. then appointed a hand-picked man (former Rutgers University prominent figure, former law-clerk to a Camden Federal Judge, and a formerDeputy to Camden County Prosecutor), to be in charge of the U.S. Attorney's office in Camden. Very soon thereafter, said former Rutgers prominent man was made a U.S.Magistrate in Cmaden, with his

former colleague continuing at his side. Said Magistrate / former U.S. Atty / former Rutgers star /former county prosecutor has had and continues to have very strong ties with principal defendant Rutgers University - See Annex Exh 29. I was hired on blatantly discriminatory terms in 1984 (see DSI 1 pages 1-5,) and the Rutgers University crowd including said individuals chose the path above described.

1.1022 TO GET FACTS ON THE 'BUSINESS' SEGMENT OF THE GOVT -BUSINESS - RUTGERS - VIGILANTE GROUPS complex, among other things, I sought facts through my interrogatories to the Rutgers University component of the "apparatus", but the assigned Magistrate permitted the University to evade the questions in the face of my repeatedly asserting my legal right to the information by profusely quoting case law after case law , AND

THE JUDGE IGNORED MY MOTIONS TO CORRECT THE MATTER - see here My interrogatory # 6 (the intgtrs are appendedto DSI 107) - then see my motions to compel answersin the said DSI 107 pages 1,2and in DSI 113 pages 1 and 2 - the Judge ignoring my motions in part and denying the rest at DSI 127, pages 1,2.

1.1023 THE U.S.'s ONGOING COLLUSIVE ACTIVITY against me is futher confirmed : SEE Annex Exhs 26, 27, 28,29,30,31,32, and 33.

IN CLASS AFTER CLASS, semester after sememster, Faculty, staff and advisers from the corporate world in the region connived, contrived and defrauded in a lynch-mob environment and with impunity and agressive cooperation of the Police Apparatus at all levels. I was at the receiving end of the massive, organ-ized brutality. I initially went to the Police Apparatus and the elected offi-

cials pulling their strings - see Exhs26, 27, 28, 31, 32, and 33- but saw that I was akin a chicken complaining to the foxes.

I also kept my Congressman, U.S.Rep. James Florio informed -Annex Exh 25.1 is one of a large number of letters I wrote to Rep. Florio. While Rep. (now Gov.) Florio never saw me despite my requests for a meeting, he wrote back . Local vigilante groups with the active complicity of officials carried on - and still do - their lynch-mob type activity - see the Complaint - DSI 1, page5, para 17.6; DSI 16, page 1, para 2 - but the Judge Ordered a denial of the request (DSI 33, p. 3, bottom para). At a hearing before the Magistrate in January, 1989 I even described the grisly details. Nothing has been done to check the apparatus.

.024 To fact-find the above aspect, I posed interrogatories (i) To

the University: interrogatoies 14,17, 18, 21, 23, 30, 39, 40, and 41; (ii) To the Union: Ints 2, 3, 5, 9, 10, and 11. - see here DSI 98-its appendix; and DSI 107-its appendix. The defendants did not answer the intgs though voluminous case law I cited required them to; and the Magistrate and the Judge did not compel the defendants to answer - SEE HERE DSI's 107,pages 1-2; 113, pages 1,2; and 127, pages 1 and 2. MISCREANTS got a reprieve when the Dist Judge stone-walled the whole case by completely ignoring the case's docket for a whole year - between Feb 17,1990 and Feb 19,1991. The net effect of this was to (i) facilitate the miscreants' destruction of unlawfully gathered dossiers/files, and (ii) facilitate wrongdoers'- including those in the Federal Courts - escape from the statute of limitations of liability under the law.

1.2.01/02 THE ASSIGNED U.S. MAGISTRATE'S obstruction of Justice ongoingly and very substatially overlaps - demonstrating concerted unlawfulness - with that of the Dist Judge.

The Magistrate aided and abeted and ongoingly endorsed concerted unlawfulness in court and related proceedings. SEE : (i) DSI 172,page 3,para 11.0 and the documents referenced therein; (ii) DSI 169, pages 1,2,and 4; paras 4.0, 4.1, 5.1, 6.1, 6.21 et seq, 7.1, 7.2, 7.7, and 7.8.

1.2.03 The Magistrate (as wellas the Judge , as we saw above) violated Federal Rules of Civil Procedure to favor defendants. SEE HERE among other, DSI 114, pages 1,2 - paras 2.01, and 6.01.

1.2.04 When I alerted the Court that there had begun (to escalate ongoingly) activity in court proceedings involving not only the defednants but also court officials - see DSI 16,page 1, para 3;

DSI 40, page 1- paras 2 and 3; DSI 50, page 1,- paras 1 and 2; DSI 52, page 1, paras 3 and 4; DSI 65, p.1, para 3.01; and DSI 65, p.1, para 2 - Mag. Simandle resorted to intimidation : see Annex : Exh 11, p. 2, para 2. In the latter again, the Magistrate wilfully misleads , distorting my filings : see Annex Exh 12, para 2.4, among other.

.05 ONGOING TACIT ACTIVITY OF THE DIST CT WITH DEFENDANT-APPELLEE U. S. :

The Magistrate - and the Judge - by law, perused in Sept 1988 my Complaint # 88 4115 - DSI 1 - its pages 2,3, and 4 -in which I allege among other things a conspiracy among Rutgers University, the Faculty union, new Jersey, and the U.S.. The Magistrate , as the assigned magistrate, was to ensure lawful discovery; but proceeded, in tacit arrangements with the U.S. Attys' office, to : first

block my access to U.S.'s dossiers on me (which I alerted the court were fraudulently built and perpetuated beginningwith my Complaint) - see here, among other, Acc Aff Exhs 14, 16, 17, 18,19, 20, 22, 23, and 25; and then proceeded to permit Rutgers University and the Union to commit massive ongoing fraud and further to block their full and lawful discovery as well, as elaborated upon above. WHEN I ALERTED THE COURT OF APPEALS - see C.A. 90 - 5001 : my Petition for a Writ of Mandamus -see its pages 2 through 6 - C.A. Judge Sloviter, looked the other way in the face of profusely documented unlawfulness.

.06 THERE WAS, IN EFFECT, A CONCURRENT WAVE OF UNLAWFULNESS IN THE COURT OF APPEALS AS WELL , AND I ALERTED the then C.A. Chief Judge - see Annex Exhs 7 and 8. But the C.A. (see Annex Exh 2) did not even acknowledge either of

my two alerts, and when I petitoned for an In Banc rehearing, - see pages 1-3 of each of my two separate In Banc Rehearing pleadings for two of my appeals, C.A. 90 - 5001 and C.A.#89 - 5947 both filed FEB 2,1990 - the matter got nowhere with the C.A..

1.2.07 I AGAIN CAUTIONED THE DIST COURT in DSI's 173 /its pages 2-5; and in DSI 174 /its page 1. I WAS , AND AM, HOUNDED DAY AND NIGHT BY VIGILANTE GROUPS. ON OCT 23, 1990 I ALERTED THE U. S. ATTY FOR NEW JERSEY IN NEWARK, New Jersey,- Annex EXH 1.1.

.102 OBSTRUCTION OF JUSTICE is further evidenced in the Magistrate's letter-order of December 13, 1989 - DSI 149 ,page 2. In the said Order the Mag. distorts the F R Civ P on p.2,top 20 lines, to cover up his clear cover-up of the Union in regard to the latter's breach of court proceedings - see here

DSI 148,its page 1,2,and 3; and DSI 151, its pages 1,2,3 - which are among ongoing events constituting profusely documented indictment of yet another chapter of the Dist Court's collusive unlawfulness with the defendants.

1.2.103 The Magistrate further blocked my anticipated challenge to him per 28 USC 636 c 4 and Local Rule 40 D 4 a,which I had pursued before (see DSI 113 , pages 1 and 2 - cornering the pair., q.v..

1.3.0 EVENTS IN THE DIST COURT, FEB 16,1990 :

1.3.0.33 The follwoing are among the extraordinarily noteworthy events that took place during oral arguments in the Dist Ct / 2-16-1990 - Please see for details DSI 181, pages 1 - 5;

1.3.0.331 The Dist Judge, without plaintiff's asking anything about the time frame, told the plaintiff that the case

may drag on for ten years.

I believe that this alone renders all orders of the Dist Judge in the case and reversible.

1.3.0.332 When Rutgers University's answer to plaintiff's interrogatory # 1 (please see DSI 107 for details on interrogatories) was discussed, the plaintiff told the judge that the University had lied vis-a-vis the table of data on faculty salaries, etc. Said table's caption is jumbled and rendered illegible. A majority of the University's answers to plaintiff's interrogatories are either evasive, or in blatant violation of applicable rules, statutes and case law; and all were submitted not-under-oath, and by a University official writing the date "September 5,1988" although submitted in September of 1989. The plaintiff-appellant urged the judge at the hearing to have the University provide names

against salaries in said table of salaries - as asked in the interrogatories - (to verify plaintiff's assertion that the University had, here again, resorted to fraud). Plaintiff's said motion, as others to compel discovery, has todate been ignored by the judge as have plaintiff's numerous motions to make for full and lawful discovery.

1.3.0.333 When discussing ongoing and blatant fraud of defendant Rutgers Council of AAUP Chapters (the faculty union) as well, the plaintiff drew the judge's attention to a union offical's affidavit in support of the union's motion for summary judgment with neither a signature nor a date (said fraud, among others, is documented by plaintiff at DSI 167, its Exh B2). Counsel Reinhardt turned to said "affidavit" in her file. Plaintiff indicated to the judge that plaintiff could see from where he was standing that

said counsel's files also had the no-signature "affidavit".

Plaintiff asked the judge if theymay appoach the bench. The judge, then, acting as an advocaate of defense counsel Reinhardt said to Ms Reinhardt that she probably had the properly signed affidavit in her office. Reinhardt said nothing. The judge knew, from his study of the record, that the union (as the University) had pulled similar frauds before in connection with an affidavit of another union official, Wells Keddie, when initially Keddie's "affidavit" was submitted without a signature(DSI 156,its Exh A), and later Keddie signed on November 30,1989,the notary signed his/her name illegibly, and further hiding his/her name : see copy attached to DSI 181. SECONDLY, plaintiff drew the court's attention to just two or three of an ongoing and blatant exercises in wilful deceit and

fraud already on record : In regard to the Brief in support of the University's motion to dismiss - the transcript portions there submitted;

(i) In the 1st day of plaintiff deposition transcripts; p. 157, line 15 : Plaintiff had said (Former Georgia Gov.) Lester Maddox "of the ax-handle fame";plaintiff did not say "of the X hall of fame" asthe University would have all reading their document believe.

(ii) In the 2d day of plaintiff's deposition transcripts; pp. 111, 112, et seq are missing where plaintiff indicates that plaintiff was indeed granted tenure as Full Professor and Director of the Graduate School of Business of said University and had complete charge of that faculty.

1.3.3341 Additionally, see DSI 93, p.2, para 1.03, lines 6-12, setting forth details of yet another in a long series of exercises in evidence tampering brought to

the attention of the District Judge.

1.3.3350 When plaintiff complained that defendants as we ll as their counsel had submitted "affidavits" that were not notarized, nor signed, and in some cases signed by defendants in front of their own counsel; and in additional instances signed by defendse counsels in front of some "John Smith" who signed illegibly, indicated that he was an attorney, but gave no full name nor any particulars as to when he was admitted to the bar; the judge, during said 2-16-1990 court hearing, said such was permissible.

1.3.3351 The plaintiff told the judge at said hearing that apart from the plaintiff, Rutgers University had also professionally assasinated a number of other minority persons. Looking at the tip of the iceberg, the plaintiff told the judge how one Dr. Anwar Shabon, a refugee from Afghanistan, and one Dr.(Mrs) Vagheri, an

immigrant from Iran, both of whom were employed at the University at the same time as the plaintiff was, were fired, had claimed discrimination, and were unable to find employment anywhere. (The judge already knew from court record that a black lady professor at the University, Dr.(Mrs) Graham-Ellis, was coerced to resign from the University a few weeks after she told plaintiff of being horribly treated by the University.).

1.3.336 After plaintiff had indicated to the judge that the discovery of facts in the case was incomplete, flawed, rampant with fraud, and unlawfully stayed by the Court, the judge asked the plaintiff if he was asking for a continuance. The plaintiff, already on record as having asked for full and lawful discovery and for continuance (see, among other, DSIs 158 and 171), said that plaintiff was indeed asking for a continuance.

1.3.337 The plaintiff described to the judge with great specificity how vigilante groups were ongoingly attempting to kill the plaintiff by subjecting him to, among other, noxious chemicals. The judge countered by asking the plaintiff he was dealt any body-blows. The plaintiff said he wasn'st. Beginning with the Complaint (its para 17.6) the plaintiff had drawn the Court's attention to the threat to the safety and security of the plaintiff and his wife and children.

1.3.338 The plaintiff complained to the judge at the hearing that the U.S.Government in general and the Federal Bureau of Investigation in particular were violating plaintiff's Constitutional rights.

The judge, who is a Federal Judge before whom plaintiff's similar complaints have been beginning with the Complaint - among other - said : "I never interfere with them".

In the same context the plaintiff prayed for o review of dossiers on him.

1.4.000 DIST COURT EVENTS, 2-17-1990 TO 5-21-1991 :

[i] After the 2-16-1990 hearing [at which the judge again and repeatedly abrogated his judicial responsibility and enganed in judicial and criminal mischief] - SEE PARAGRAPHS 13.3.001 ET SEQ ABOVE - I again alerted the judge as to the rampant unlawfulness in Ct procedings [DSI 169 and DSI 173];

[ii] The judge froze the bench for an year [DSI 165-176]; [iii] The judge dismissed my complaints - DSI 176;

[iv] I requested the judge to place a typed transcript of the 2/16/1990 oral argument [referenced above] on the docket in the interest of justice - DSI 181; but the judge refused [distorting my petition] - DSI 185; and I again emphasized "the interest of justice" vis-a-vis my request

to have the court place a typed transcript of the 2/16/1990 oral argument on the docket - DSI 192; but to no avail DSI 195 [last docket entry].

A P P E N D I X M :

1.5.000 C.A. PRE-ARGUMENT PROCEEDINGS

1.5.01 I filed pre-argument motions, including my fourteen pre-argument motions filed 7/24/1991 in which, among other, I moved the C.A. to act on therein profusely documented and meticulously detailed evidence of corruption and organized crime in the Court of Appeals for the Third Circuit and in the lower court [U.S.Dist Ct, Camden, New Jersey].

1.5.02 A two-judge panel ruled on my said fourteen motions, refusing to do anything about my concerns of clear unlawfulness in court proceedings. I filed subsequent motions requesting ruling by a THREE JUDGE panel, but to no avail.

2.00 STATEMENT OF RELATED CASES :

(i) - C.A. # 89 - 5346; - Filed April 20,1989; - Int. Appeal praying for Dist Judge to recuse himself for wilful and malicious distortion of facts of case in ruling,exhibition of bias; mischief and abuse of discretion; - the interlocutory appeal was not heard: reason given was that final judgment was lacking;

(ii) - C.A. # 89 - 5947; - Filed November 29,1989; - Int. Appeal charged obstruction of justice, wilful and premeditated stonewalling of discovery, and unlawful and collusive judicial activity involving the Dist Judge, the U.S.Magistrate, defense counsel, and defendants; - Plaintiff-appellant further offered documented evidence that there were serious irregularities involving the C.A. Clerk and the Staff Attorneys vis-a-vis this interlocutory in regard to, among other, plaintiff-appellant's Argument Brief- SEE in this regard Appellant's

pre-argument motions, with a thereto-appended Appendix filed 7-24-1991, therein page 12 / line 8 ff in that document; - said interlocutory appeal was not heard either; with the reason given that said appeal lacked final judgment;

(iii) LIST OF MANDAMUS PETITIONS TO THIS COURT : (i) - C.A. # 90 - 5001; - Plaintiff-Appellant's Petition for a Writ of Mandamus;

- Filed 1-5-1990; - Denied 1-22-1990;

- SEE, FOR SERIOUS IRREGULARITIES IN THE PROCESSING of the Mandamus Petition : appellant's 7-24-1991 preargument motions, page 12 / lines 9 through 16 therein.

12.00 STATEMENT OF PRE-ARGUMENT PROCEEDINGS IN THE C.A. :

My fourteen profusely documented and meticulously detailed pre-argument motions filed 7-24-1991 with the C.A. sought relief from, among other, ongoing

violation of my rights in and out of the Federal courts. The court via a two judge panel permitted me to proceed on the original record, but denying my other motions, including motions for the appointment of counsel and for an investigation of blatant and profusely documented corruption in both the Dist Ct and in thes Appellate Court. I filed motions 9-9-1991 and on 9-18-1991 requesting a rehearing on the 7-24-1991 motions via a three judge panel, pointing out that C.A. Court Rules were violated when a two judge panel ruled on my 7-24-1991 motions. Said motion was denied by C.A. Judge Becker on 10-4-1991 sans an opinion.

No. 92-254

Supreme Court, U.S.
FILED
SEP 9 1992
OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1992

JAY B. BRIGHT,

Petitioner,

v.

RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY; RUTGERS COUNCIL OF AAUP CHAPTERS; THE FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE; IMMIGRATION AND NATURALIZATION SERVICE U.S. DEPARTMENT OF JUSTICE; and NEW JERSEY DIVISION OF STATE POLICE,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF OF RESPONDENT RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY, IN OPPOSITION

ARON M. SCHWARTZ *
VOGEL, CHAIT, SCHWARTZ AND COLLINS
A Professional Corporation
77 Headquarters Plaza,
North Tower
Morristown, New Jersey 07960
(201) 538-3800
**Counsel of Record.*

JOHN B. WOLF
Rutgers, The State University of New Jersey
New Brunswick, New Jersey 08903

September 9, 1992

Washington, D.C. • THIEL PRESS • (202) 328-3288

QUESTION PRESENTED

Whether, in affirming the District Court's grant of summary judgment in favor of Rutgers, The State University of New Jersey and its dismissal of the complaint on the grounds that the claims under 42 U.S.C. §§1981, 1983, 1985(2), and 1986 and under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.* were untimely, the Court of Appeals "so far departed from the accepted and usual course of judicial proceedings, or . . . sanctioned such a departure by [the District Court] . . . as to call for an exercise of the Supreme Court's power of supervision" pursuant to Supreme Court Rule 10.1(a) where the decisions below do not conflict with decisions of other courts of appeals or of this Court?

PARTIES BELOW

The only parties to this proceeding in the courts below were those indicated in the caption of this brief.

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BRIEF OF RESPONDENT RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY, IN OPPOSITION

OPINIONS BELOW

The Court of Appeals affirmed the decision of the District Court without opinion. 961 F.2d 207 (3d Cir. 1992) (Appendix W, p. 124a)* The opinion of the District Court (Appendix Q, p. 101a) was not reported.

*All references in this Brief to the Appendix are to the Appendix submitted by Respondent Rutgers, The State University of New Jersey.

JURISDICTION

Petitioner seeks to invoke the certiorari jurisdiction of this Court pursuant to 28 U.S.C. §1254(1).

STATUTORY PROVISIONS INVOLVED

This case involves the following statutory provisions, the relevant text of which is contained in Appendix Z:

42 U.S.C. §1981
42 U.S.C. §1983
42 U.S.C. §1985(3)
42 U.S.C. §1986
42 U.S.C. §1988
42 U.S.C. §2000e-2(a)
42 U.S.C. §2000e-3(a)
42 U.S.C. §2000e-5(e)
N.J.S.A. 2A:14-2

COUNTER-STATEMENT OF THE CASE

A. Procedural History

Petitioner, a former Assistant Professor at Rutgers, The State University of New Jersey (hereafter, "Rutgers" or the "University"), filed the complaint in this case on September 21, 1988. (Appendix A, pp. 1a-9a) Although it contains a variety of factual allegations and makes some reference to various legal claims, the complaint does not clearly set forth any connection between the facts alleged and the legal claims advanced.

Nevertheless, the factual allegations of the complaint may be broken down into two categories. First, petitioner apparently contends that the University improperly discriminated against him at the time of his hire due to his race and national origin in that (1) his academic rank of Assistant Professor was an inappropriate "entry level"

position; (2) his starting salary of $30,140 per year was $8,000 to $10,000 below any other Ph.D. in his department; and (3) his office assignment was on a floor with a "group of non-Ph.D.'s," apart from the main departmental offices. (Appendix A, p. 3a)

The second category of petitioner's factual allegations involve numerous fantastic assertions of a complex "conspiracy and campaign to malign, defame and discredit [plaintiff] and a conspiracy to abridge his civil rights." (Appendix A, pp. 4a-7a). The complaint averred that Rutgers conspired and colluded with, among others, co-defendant Rutgers Council of AAUP Chapters (the Rutgers faculty union, hereafter the "AAUP"), the Federal Bureau of Investigation, the Immigration and Naturalization Service and the New Jersey Division of State Police.[1] In his answers to the University's interrogatories, petitioner has asserted that the conspiracy involves "prospective employers, local businesses, local social organizations, New Jersey Govt. agencies, United States Govt. agencies, University administrators, staff, students, Indo-Americans, the media, elected representatives at the local, state and Federal level, among others."

Although unclear, the complaint appears to assert a cause of action against Rutgers under 42 U.S.C. §1981 and §1983 for alleged employment discrimination (presumably, the §1983 claim is based on the Equal Protection Clause of the Fourteenth Amendment); a cause of action under 42 U.S.C. §§1985(2) and 1986 for alleged conspiracy to violate his civil rights; a cause of action for unlawful employment discrimination in

---

[1] By Orders dated March 14, 1989 and March 31, 1989, the claims against the FBI, INS and the State Police were dismissed.

violation of 42 U.S.C. §2000e-2(a)(1) and (2); and a cause of action for retaliation in violation of 42 U.S.C. §2000e-3.

After certain discovery was completed[2] and following numerous applications, petitions, motions, "urgent petitions," and "alerts" filed by petitioner, the University moved for summary judgment (Appendix K, pp. 44a-45a) on the grounds that (1) petitioner's claims under 42 U.S.C. §§1981, 1983, 1985 and 1986 were barred by the applicable statute of limitations; (2) petitioner's claims under 42 U.S.C. §2000e *et seq.* were barred due to plaintiff's failure to file a timely charge of discrimination with the EEOC; and (3) even if petitioner's claims were not time-barred, the allegations of the complaint either failed to state a claim or the University was entitled to summary judgment on the merits.[3]

The District Court held that the petitioner's claims were barred by the applicable statutes of limitations and consequently saw no need to address the University's other arguments (Appendix Q, p. 110a)[4] The District Court

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[2]Petitioner and the University answered the other's interrogatories, the University produced voluminous documents, and the University took plaintiff's deposition.

[3]The University relied on supporting affidavits from Dr. Walter Gordon. Provost of Rutgers' Camden Campus and formerly Dean of the Faculty of Business Studies at the Camden Campus (Appendix M) and Dr. Peter Weissenberg, formerly Associate Dean of the Faculty of Business Studies at Rutgers Camden Campus (Appendix L); transcript excerpts from petitioner's deposition (Appendices N, O); and petitioner's answers to interrogatories.

[4]The District Court entered an Order dismissing the case as to Rutgers (Appendix R, p. 111a) simultaneously with the issuance of its written opinion. Subsequently, the District Court denied petitioner's motion for reconsideration and his motion for reconsideration of the District Court's denial of his motion for reconsideration. (Appendices S, T, U, pp. 112a-119a)

also found no merit in petitioner's application for additional discovery and for a continuance (Appendix P) for that purpose. The Court noted that the University had responded to petitioner's discovery requests; that petitioner's application for additional discovery did not suggest what might be disclosed by further discovery, what facts petitioner was seeking, or how they would overcome the summary judgment motion; and that petitioner's application for a continuance and further opportunity for discovery was based only on broad conclusory allegations. (Appendix Q, pp. 104a-105a)

While the case was pending in the District Court, petitioner filed numerous applications, "urgent petitions," and "alerts." Among other things, petitioner sought to have the District Judge recuse himself; suggested that the District Judge was part of Jewish conspiracy; sought proto harm him and his family[5]; and sought the appointment of a special prosecutor to investigate these and other accusations. (Appendices B, D, E, F) The District Court, for the most part, issued written opinions on petitioner's applications no matter how bizarre or farfetched they appeared. (*E.g.*, Appendices C, G, J)

On appeal, petitioner again peppered the court and the parties with an abundance of "urgent petitions," "alerts," motions, and applications. (Appendix V, pp. 120a-121a) The Court of Appeals affirmed the District Court, without opinion (Appendix W, p. 124a), and denied petitioner's petition for rehearing and rehearing *en banc.* (Appendix X, p. 125a)

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[5]Petitioner filed papers asserting that various government agents tailed him, attempted to run him off the road, and used gas and chemical weapons against him. (Appendix F, pp. 23a-25a)

B. Facts

1. Petitioner's Background Prior to 1984.

Petitioner was born and educated in India and ultimately received a B.Sc. degree in 1954 from Gujarat University. (Appendix N, pp. 63a-65a). In 1958, petitioner came to the United States to attend Heald College of Engineering in San Francisco. He studied at Heald College for one academic year and left without earning a degree. (Appendix N, pp. 65a-67a)

Sometime later, petitioner attended the University of Houston where he received his Masters Degree in August 1962. (Appendix N, pp. 67a-68a) Petitioner returned to the University of Houston in early 1966 as a graduate student in the College of Business where he studied economics and management. Petitioner earned his doctorate from the University of Houston in August 1969. (Appendix N, p. 71a)

In September 1969 Petitioner joined the faculty at the Columbus College campus in the University of Georgia system as an assistant professor. (Appendix N, p. 72a) Petitioner was employed by Columbus College for approximately five years, never advancing beyond assistant professor and never earning in excess of $15,000 per year. (Appendix N, p. 77a-78a)

Petitioner left Columbus College under circumstances that were similar to those in the present matter. Petitioner says that he had been promised a promotion and raise

by the Dean at Columbus College. When the promotion was not forthcoming, petitioner filed charges with the EEOC, claiming that the failure to promote him was due to illegal discrimination. (Appendix N, pp. 78a-79a) Though his contract was renewed after the filing of charges, it was not renewed for the 1974-75 academic year. (Appendix N, pp. 79a-81a)

Petitioner then sent out hundreds of resumes but received only one job interview, at Alabama State College in Montgomery, Alabama where he was hired. (Appendix N, p. 81a) Petitioner taught at Alabama State until September 1975, at which time his contract was not renewed. (Appendix O, p. 83a) Again, petitioner filed discrimination charges against his employer with the EEOC. Petitioner claimed that he was discriminated against due to his foreign birth, which discrimination manifested itself in an *inappropriate office assignment and the hiring of two white "non-Ph.D.'s" at a higher salary*. The EEOC found no basis for these charges. (Appendix O, pp. 83a-85a)

After his non-renewal by Alabama State, petitioner was unemployed for nearly two years. (Appendix O, p. 86a) Thereafter, petitioner got a job in his native India where he was employed for less than one year (Appendix O, p. 86a), returned to the United States in 1977 and found a part time faculty position at California State University (Appendix O, p. 87a), and then returned to India in early 1978. (Appendix O, p. 87a)

After three or four months in India, petitioner returned to the United States, moving to Boston. (Appendix O, p. 87a) Believeing that he was the victim of blacklisting by the United States government, petitioner chose Boston so that he could enlist Senator Edward Kennedy

"to correct the injustices to which [he] was being subjected." (Appendix O, pp. 87a-88a) Eventually, after sending "hundreds" of resumes to colleges, universities, and private industry (Appendix O, p. 88a), petitioner secured a position as an associate professor of management at American International College in Springfield, Massachusetts where he was employed for two years, with a starting salary of approximately $16,000. (Appendix O, pp. 88a-89a) Petitioner left American International College in August 1980 when his contract was not renewed. (Appendix O, p. 89a)

After leaving American International College, petitioner secured a position at Gannon University in Erie, Pennsylvania where he was hired as an associate professor with a starting salary of $19,000 beginning in the fall of 1980. (Appendix O, pp. 90a-92a)

Petitioner testified that he was promised a full professorship at Gannon and was also promised that he would be named chairman of his department. (Appendix O, p. 92a) According to the petitioner, these promotions did not come to pass because the position was given to someone else who received preferential treatment as a former Gannon student. Petitioner's contract at Gannon was not renewed for 1982-83. (Appendix O, pp. 92a-93a).

This time, petitioner "floated a resume all over the country . . . [to] at least three or four huncred" colleges and universities. (Appendix O, p. 93a) This effort did not result in a job offer from any American college or university. Petitioner was able to obtain a position, however, at Saurashtra University in India where he was employed as a full professor of economics and

director of the postgraduate program in business management from April 1983 through April 1984. (Appendix O, p. 93a)

2. Petitioner's employment by Rutgers.

The first step in hiring decisions by the Faculty of Business Studies (FBS) at Rutgers' Camden campus is a determination by faculty and administrative officers that a vacancy needs to be filled or a new position created. No hiring may occur unless a "line" – a commitment of funds – is made available to the academic unit, in this instance FBS. Members of the Appointments and Promotions Committee (the "A & P Committee") of FBS interview the candidates and make a recommendation to the Associate Dean of FBS, who also interviews the candidates. The Associate Dean then forwards his recommendation to the Dean of FBS. In the case of an appointment not involving tenure, such as the plaintiff's, the Dean or his designee negotiates the salary with the successful candidate within the salary parameters of the funds available for the position and the salary scale for the appropriate rank as established in the collectively negotiated agreement between the University and the AAUP. (Appendix M, p. 56a-57a)

In February 1984, well into the recruiting process for the coming academic year, petitioner wrote to Dr. Weissenberg seeking employment at Rutgers. (Appendix L, p. 48a) Dr. Weissenberg responded to the inquiry by letter dated March 6, 1984. This letter did not discuss possible salary, but Dr. Weissenberg did make clear that he could not offer petitioner the rank of Associate Professor with tenure. Instead, Dr. Weissenberg suggested the possibility of a position as visiting faculty member. (Appendix L, pp. 51a-52a)

Petitioner rasponded by expressing interest in such a position. Petitioner raised the issue of salary, stating:

> As for the salary amount, I have in mind a figure in the *low thirties* for the academic year. [emphasis added] [Appendix L, p. 53a]

Upon his return to the United States in May 1984, petitioner visited Rutgers' Camden Campus and was interviewed by two members of the A & P Committee (Appendix O, p. 94a), both of whom recommended petitioner's appointment as an Assistant Professor of Finance. Dr. Weissenberg was also in favor of hiring petitioner at the rank of assistant professor. (Appendix L, p. 48a)

The line available for this position was funded at $27,084. The allocation of funds to this line occurred early in the hiring process, long before petitioner applied for the position. Indeed, before petitioner applied, the position had already been offered (at the rank of assistant professor and at a salary no higher than $27,084) to other candidates who declined the offer. (Appendix L, p. 47a)

However, in recommending petitioner's appointment, Dr. Weissenberg requested additional funding of $3,093 so that petitioner's salary was to be $30,177. (Appendix L, pp. 48a-49a) Petitioner's salary was on the higher end of the assistant professor range which, in July 1984, went from $20,329 to $34;145. In fact, at the time of petitioner's hire there were six assistant professors in FBS and petitioner's salary was the highest of all those at that rank. (Appendix L, p. 49a; Appendix M, p. 59a)

On May 25, 1984, then-Dean Walter Gordon wrote to petitioner offering him a position as an Assistant Pro-

fessor[6] at a salary of $30,140. In mid-June 1984, petitioner signed and returned a faculty contract reflecting these terms and began his employment at Rutgers on July 1, 1984. (Appendix M, pp. 57a, 61a)

Significantly, at the time the offer of employment was made, petitioner believed that the University was improperly discriminating against him. Petitioner testified that he believed at the time that he was hired as "window dressing" so that the University would have a "colored face or minority for three or four years."

> Q. Did you discuss salary with him [Dr. Peter Weissenberg] at that point?
>
> A. Yes, we discussed salary and I said, Peter, what do you think is reasonable, and he said he could offer me 30. I said, Peter, you offered me 32 back in '81 and after that I was a full professor, I was a director. Now you are saying 30. He said take it or leave it. And I said the going rate is in the upper 40s and he said, Jay, take it or leave it. He – in all fairness to me, and although I like Peter, I think Peter and Milton Leontiades – Milton Leontiades is a full professor of management, although like me he's an economics Ph.D., and like me, he has been teaching management – they both had entered into a conspiracy.
>
> Q. What do you base that accusation on?

---

[6] Academic rank at Rutgers is determined by the professional and scholarly credentials of the candidate including degree(s) received or to be received; institutions attended; nature and extent of scholarly publications and research activity; the quality and quantity of scholarly publications and other evidence of research activity; nature and extent of involvement in professional and academic organizations; professional promise; teaching experience; and visibility and impact within the field. (Appendix M, pp. 58a-59a)

A. I'm coming to that, Mr. Alterman. I'll tell you more about it. The plot was that I would be hired – Peter had told me a few things. I'll tell you in a minute. I would be hired and I would be let go and I would then be a colored face or a minority for three or four years. In the meantime, they would probably catch another minority man as a window dressing. This is the sort of a plot that I think he and Milton Leontiades were hatching.

Q. What do you base that belief on?

A. Okay. I base that belief on this: I told Peter, on the way when he took me back, that, Peter, I should like to buy a house, and what area would he recommend. Now, I didn't know anything about the geography of New Jersey, nor Philadelphia, really, and he said that there was no need for me to buy a house, nor for me to call my family, you know. He said that there was no big rush, and he was dissuading me from settling down, which confirmed my belief. I knew that he was offering me a salary which was ten, maybe $15 thousand below any person coming from a full professor's position would expect. [Appendix O, pp. 95a-96a]

Petitioner testified that he formed this belief at the time he was hired:

Q. Have you – did you at the time form a belief as to why he couldn't offer you more than $30 thousand per year?

A. My, my impression was that as Weissenberg saw it, I was going to be in the revolving door, so to speak, window dressing for two or three years, you know.

Q. Did you form this belief at the time?

A. Yes, I did. [Appendix O, p. 96a]

Petitioner also explained why he accepted the position at Rutgers notwithstanding his belief that he was being discriminated against at the time:

> You see, I was in a position where I had no job before I took the Rutgers' job. The hiring season was way behind me. There was no cash flow. I was surviving on my savings, and, knowing Peter, from what little I knew of him at that time; number one, he was a likable man; *number two, he was being blatantly discriminatory;* number three, hoping that there would be wiser men than him, and having an optimistic attitude toward life, I decided to go with Rutgers. [emphasis added] [Appendix O, p. 96a]

Upon his arrival at Rutgers, petitioner was assigned an office on the fifth floor of Victor Hall. The primary consideration in making this assignment was the availability of office space. (App. L, p. 49a)

At the time petitioner was assigned his office (July 1984), it was the only one available. In any event, his office was on the same floor and in the same vicinity as the only other person specializing in finance – petitioner's field. At that time 13 FBS faculty had offices on the sixth floor of Victor Hall and seven had offices on the fifth floor. Three FBS faculty were located in Armitage Hall, another building on campus. (Appendix L, p. 49a)

3. The EEOC Charges.

On November 14, 1985, some seventeen (17) months after his initial placement on the salary guide, his assignment of rank and office assignment, petitioner filed with the EEOC a charge of discrimination against the University. In that chage, petitioner complained that he

received an inappropriate salary in July 1984 as a result of illegal discrimination by the University. Significantly, petitioner asserted that:

> In *December 1984*, I discovered I am being paid less than the average *Associate* Professor [emphasis added]

(Appendix Y, pp. 126a-127a)

Petitioner filed subsequent charges of discrimination with the EEOC on May 8, 1986 and March 18, 1987. (Appendix Y, pp. 128a-132a) These charges assert, in essence, that the University harassed petitioner in retaliation for his filing charges with the EEOC.

All three of petitioner's charges were investigated by the EEOC which found no evidence of any violation of Title VII and dismissed the charges. (Appendix Y, pp. 133a-153a)

SUMMARY OF ARGUMENT

The District Court applied well-settled law in holding that petitioner's claims were barred by the applicable statutes and limitations. Petitioner has not pointed to any decisions of this Court or of other Courts of Appeals in conflict with the decision in this case.

The discriminatory acts of which petitioner complains all took place in May, June, and July 1984. The complaint was filed well after expiration of the two year statute governing claims in New Jersey under 42 U.S.C. §§1981, 1983, and 1985 and the one year statute governing claims under 42 U.S.C. §1986. Similarly, petitioner's EEOC charge – filed on November 17, 1985 – was well beyond either the 180 or 300 day Title VII charge filing period period established by 42 U.S.C. §2000e-5(e).

Petitioner's arguments regarding unlawful and fraudulent conduct on the part of the Court of Appeals and the District Court are plainly without merit. Both the Court of Appeals and the District Court acted well within the bounds of their discretion with respect to discovery and other procedural matters. Petitioner's conclusory and far-fetched assertions are insufficient to establish an abuse of discretion by either the Court of Appeals or the District Court, much less a departure so far from the accepted and usual course of judicial proceedings as to call for the exercise of this Court's supervisory powers.

ARGUMENT

I.

THE DISTRICT COURT DECISION AND ITS AFFIRMANCE BY THE COURT OF APPEALS DO NOT CONFLICT WITH THE DECISIONS OF ANY OTHER COURTS OF APPEALS OR WITH ANY DECISIONS OF THIS COURT. NOR DOES THIS CASE PRESENT AN IMPORTANT QUESTION OF FEDERAL LAW NOT YET DECIDED BY THIS COURT.

The critical factor in assessing the timeliness of any claim is the determination of when the limitations period begins to run. This is done by identifying the discriminatory acts of which petitioner is complaining. *See, Chardon v. Fernandez,* 454 U.S. 9 (1981); *Delaware State College v. Ricks,* 449 U.S. 250 (1978).

Here, the allegedly discriminatory acts of which the petitioner complains occurred in May, June and July of 1984. As the District Court noted, at his deposition, petitioner expressly stated that he believed, *even at the time he was hired,* that Rutgers was discriminating against him but that he accepted the position because

he thought that he could convice others at the University to remedy this discrimination. (Appendix M, p. 00a)

Having identified when the statutes of limitations began to run – July 1984 at the latest – the District Court also had to determine the length of the applicable limitations periods. Pursuant to 42 U.S.C. §1988, the District Court applied New Jersey's two year statute of limitations for personal injuries (N.J.S.A. 2A:14-2) to petitioner's claims under 42 U.S.C. §§1981, 1983, and 1985, consistent with this Court's decisions in *Owens v. Okure,* 488 U.S. 235 (1989) and *Goodman v. Lukens Steel,* 482 U.S. 656 (1987) and the Third Circuit Court of Appeals' decision in *Cito v. Bridgewater Twp. Police Dept.,* 892 F.2d 23 (3d Cir. 1989).

With respect to claims under 42 U.S.C. §1986, the statute itself provides that "no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued."

And, under Title VII, as a statutory prerequisite to maintaining an action, a charge must be filed with the EEOC within 180 days of the occurrence of the allegedly unlawful act. 42 U.S.C. §2000e-5(e). *Zipes v. Trans World Airlines,* 455 U.S. 385, 393 (1982).

Since petitioner's causes of action accrued and the limitations period began to run, at the latest, in July 1984, petitioner was required to file suit under §1986 no later than July 1985 and under §§1981, 1983 and 1985 no later than July 1986 and was required to file his EEOC charge under Title VII no later than December 1984. He did not do so. Accordingly, the District Court correctly held that his Title VII charge filed on November 11, 1985 and his complaint setting forth claims under

42 U.S.C. §§1981, 1983 1985 and 1986 and filed on September 21, 1988 were both untimely.

Petitioner does not appear to argue that the District Court's decision and the Court of Appeals affirmance of it conflict with decisions of other courts of appeals or of this Court. Nor does petitioner contend that this case presents an important question of federal law that has not been, but should be, decided by this Court. In any event, it is plain that the District Court decision granting summary judgment to the University was fully consistent with this Court's relevant precedents. Issuing a writ of certiorari will not provide an opportunity for this Court to resolve any conflicts among the circuits or to resolve any important but unsettled questions of federal law.

II.

PETITIONER'S ASSERTIONS THAT THE COURT OF APPEALS AND THE DISTRICT COURT ACTED UNLAWFULLY AND FRAUDULENTLY IN DISCOVERY AND OTHER PROCEDURAL MATTERS SO AS TO CALL FOR AN EXERCISE OF THIS COURT'S POWER OF SUPERVISION UNDER SUPREME COURT RULE 10.1(a) ARE CONCLUSORY AND FRIVOLOUS.

Notwithstanding petitioner's continual filing of various motions, petitions, and applications – many of which contained bizarre allegations and many of which were frivolous – the record reflects that the District Court and the Court of Appeals at all times dealt with plaintiff's filings on their merits and in a straightforward manner. While the Petition contains conclusory allegations of unlawful and fraudulent conduct on the part of the courts below, the record discloses no conduct that would call for the Court to issue a writ of certiorari in exercise of its supervisory powers.

The focus of petitioner's argument in this respect seems to be on the District Court's handling of various discovery matters, with particular emphasis on the District Court's denial of petitioner's application for additional opportunity for discovery prior to the issuance of a ruling on the University's summary judgment motion. (Petition at 33 to 38 and 43 to 46) The District Court found that petitioner's motions regarding discovery, even if granted, would not have any effect on the court's statute of limitations rulings which were dispositive. Control of discovery, of course, is committed to the sound discretion of the district courts and their rulings on discovery (and other procedural) matters will not be disturbed absent a showing of abuse of discretion.

Undoubtedly, district courts are faced daily with summary judgment motions while discovery is ongoing or motions to compel or for more complete discovery are pending. Sometimes the courts hold the summary judgment motion in abeyance while discovery continues; other times, being satisfied that the discovery issues will not affect disposition of the summary judgment motion, the courts end discovery and rule on the motion. By doing so here, the District Court cannot be said to have "so far departed from the accepted and usual course of judicial proceedings" as to require this Court to step in and exercise its supervisory powers.

The cases cited by petitioner in support of his argument for the Court to exercise its supervisory powers are of no help to him. (Petition at 49 to 50)

In *Will v. United States,* 389 U.S. 90 (1967), the Court granted certiorari where the Court of Appeals issued a writ of mandamus and its action had wide implications for the orderly administration of criminal justice in the federal courts. 389 U.S. at 95. No such

concerns are present here; nor does this case involve the issuance of a writ of mandamus by the Court of Appeals. Similarly, the Court granted review in *McNabb v. United States,* 318 U.S. 332 (1943), also cited by petitioner, because the petition for certiorari presented serious questions regarding the administration of criminal justice in the federal courts. 318 U.S. at 333.

In *Will v. Calvert Fire Insurance Company,* 437 U.S. 655 (1978), the Court granted certiorari to review a writ of mandamus issued by the Court of Appeals. The issue was whether the writ impermissibly interfered with a matter committed to the sound discretion of the District Court and was therefore improperly granted. Again, no such considerations are involved in this case. On the contrary, the law is clear that the rulings on petitioner's discovery motions and motion for a continuance were committed to the District Court's discretion and that they should not be disturbed absent an abuse of discretion – a showing which petitioner has not made and cannot make.

In *DeBeers Consolidated Mines v. United States,* 325 U.S. 212 (1945), the Court granted certiorari to review a preliminary injunction issued by the District Court where there was a question as to whether the injunction was beyond the jurisdiction of the District Court. No such considerations pertain in this case.

Hanna v. Plumer, 380 U.S. 460 (1965) bears no relation to this case. There, the Court granted review to decide an important question regarding the applicability of state or federal law to service of process in diversity cases. It did not involve the Court's exercise of its supervisory powers to correct a departure by the courts below from the accepted and usual course of judicial

proceedings; rather it raised important issues regarding the uniformity of procedure in the federal courts. 380 U.S. at 462-63.

In both *Schlagenhauf v. Holder*, 379 U.S. 104 (1964) and *La Buy v. Howes Leather Co.*, 352 U.S. 249 (1957) the Court granted certiorari to review important but unsettled questions of federal civil procedure. 379 U.S. at 109; 352 U.S. at 251. In neither of these cases did the Court predicate its grant of certiorari on the lower courts departing so far from the accepted and usual course of judicial proceedings as to require the Court to exercise its supervisory power. Thus, they are of no help to petitioner.

In short, petitioner has not shown that either the District Court or the Court of Appeals has acted palpably beyond its jurisdiction. The record discloses no aspect of the District Court's or the Court of Appeals' handling of this case to have "so far departed from the accepted and usual course of judicial proceedings . . . as to call for an exercise of the Supreme Court's power of supervision." On the contrary, the discovery rulings on which petitioner focuses were well within the District Court's discretion. Accordingly, there is no reason for this Court to grant certiorari since this case does not otherwise satisfy any of the other criteria for review on certiorari.

CONCLUSION

For the foregoing reasons, the Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

ARON M. SCHWARTZ *
VOGEL, CHAIT, SCHWARTZ
AND COLLINS
77 Headquarters Plaza
North Tower
Morristown, New Jersey 07960
(201) 538-3800

**Counsel of Record.*

JOHN WOLF
Rutgers, The State University
of New Jersey
New Brunswick, New Jersey
08903

September 9, 1992

Supreme Court, U.S.
FILED
SEP 9 1992
OFFICE OF THE CLERK

No. 92-254

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1992

JAY B. BRIGHT,

Petitioner,

v.

RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY; RUTGERS COUNCIL OF AAUP CHAPTERS; THE FEDERAL BUREAU OF INVESTIGATION, U.S. DEPARTMENT OF JUSTICE; IMMIGRATION AND NATURALIZATION SERVICE U.S. DEPARTMENT OF JUSTICE; and NEW JERSEY DIVISION OF STATE POLICE,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

APPENDIX OF RESPONDENT RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY, TO BRIEF IN OPPOSITION

ARON M. SCHWARTZ *
VOGEL, CHAIT, SCHWARTZ AND COLLINS
A Professional Corporation
77 Headquarters Plaza,
North Tower
Morristown, New Jersey 07960
(201) 538-3800
**Counsel of Record.*

JOHN B. WOLF
Rutgers, The State University of New Jersey
New Brunswick, New Jersey 08903

September 9, 1992

Washington, D.C. • THIEL PRESS • (202) 328-3286

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APPENDIX A

Sept. 21, 1988

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Docket No. 88-4115 S.S.B.

Date Filed Sept. 21, 1988

JAY B. BRIGHT

Plaintiff

v.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY

Defendant

RUTGERS COUNCIL OF AAUP CHAPTERS

Co-Defendant

THE FEDERAL BUREAU OF INVESTIGATION,
U.S. Dept. of Justice,

Co-Defendant

IMMIGRATION AND NATURALIZATION SERVICE,
U.S. Dept. of Justice,

Co-Defendant

NEW JERSEY DIVISION OF STATE POLICE,

Co-Defendant

CIVIL ACTION JURY DEMAND

1. *Plaintiff*: The plaintiff in this action is Dr. Jay B. Bright (Jyotindra Bhupatrai Bhatt at birth, Americanized to Jay B. Bright), a naturalized United States Citizen, resident of New Jersey and residing at 212 Hillcrest Avenue, Collingswood, New Jersey. Plaintiff, filing pro se, files this suit upon the following defendants.

2. *Defendants*: The defendant in this action is Rutgers, the State University of New Jersey (generally called Rutgers University), a public institution; its principal representative being the officer in charge of the university's Camden campus and others with whom he/she worked directly or indirectly, resulting in injury to plaintiff. The co-defendants in this action are the faculty union at Rutgers (the Rutgers Council of AAUP Chapters) its principal representatives being those officers who handled and were responsible for plaintiff's interests; the Federal Bureau of Investigation (FBI) its representatives being those whose actions injured plaintiff; and the New Jersey Division of State Police its representatives being those whose actions injured plaintiff; and Immigration and Naturalization Service, U.S. Dept. of Justice.

3. *Other parties litigably involved*: The following are among the parties litigably involved in this action and to be possibly included as defendants in subsequent amendments to this complaint: The Equal Employment Opportunity Commission (EEOC); William Bradford Reynolds the Assistant Attorney General for Civil Rights; Edwin Meese, the former Attorney General; Samuel Alito, Jr. the U.S. Attorney for New Jersey; Former Secretary of Education William Bennett; New Jersey State Republican Party.

4. *Jurisdiction*: This court has jurisdiction over this action pursuant to the Fourth, the Fifth and the Fourteenth Amendments to the United States Constitution, title VII of the Civil Rights Act of 1964, as amended, and the following sections of 42 United States Code: 1981, 1983, 1985(2), 1986, 1988, 2000e, 2000e-2(a)(1), 2000e-2(a)(2), 2000e-3(a), 2000e-5(f)(3), 2000e-(6)(a), and 2000e-(6)(b); and further pursuant to 28 United States Code 1343, 2201, 2202; and further pursuant to the pendent jurisdiction of this court.

5. *Summary of Complaint and Factual Background*: Plaintiff was an employee of Rutgers University from July 1, 1984 to June 30, 1988 employed as an Assistant Professor of Finance in the Faculty of Business Studies at the Camden Campus. Plaintiff earned his Ph.D. degree from the School of Business Administration of the University of Houston, Houston, Texas, in 1969, and worked as a professor between 1969 and 1984 rising from an Assistant Professor in 1969 to a Full Professor and Director of a Graduate program in Business Management (Exhibit 1).

6. In July, 1984 Rutgers University employed him at the entry level position, an Assistant Professorship, and offered him a salary of $30,140 per academic year (Exhibit 2) which was about $10,000- below any other Ph.D. in his department (the Faculty of Business Studies) and $8,000- below even non-Ph.D.'s in his department (employer has refused to supply facts needed; exhibits 3 and 4); assigned plaintiff an office with a group of non-Ph.D.'s in the department and away and on a separate floor from the main floor of the department where all the Ph.D.'s in the dept. were housed—and this despite the fact that several non-minority non-Ph.D.'s were housed with the Ph.D.'s (Exh. 5).

7. When plaintiff tried to reason with the university administration, he met with hostility which escalated into harassment and later brutality and a systematic conspiracy and campaign to malign, defame and discredit him and a conspiracy to abridge his civil rights (exhibits 6, 7, and 8). The university administraton ignored plaintiff's pleas for a campus-wide committee of non-partisan professors. The plaintiff took his grievance before the faculty union who (knowingly) presented his matter to the administration (late) and the latter rejected it as untimely filed (Exh. 9). Fearing State-wide implications, the university intensified concerted efforts involving numerous parties on and off campus to malign, defame and discredit plaintiff and, he is led to believe, "Federalized" the matter with defendants' and others' influence to the plaintiff's detriment. The union had filed the grievance late although it had been alerted by plaintiff at an early stage initially verbally and later in writing (Exh. 7). Surely, the union knew the rules and procedures well—it has worked hand in hand with the same university administration for nearly twelve years. Subsequently, the union and the university knowingly put the matter before an unqualified arbitrator—one in the New Jersey State Board of Mediation. Both the university and the union knew that the said Board hears complaints against "private" employers (Exh. 10), and that a New Jersey Board should not hear complaints against a New Jersey institution (Rutgers). The New Jersey State Board of Mediation is equally at fault as this and other information (presented later in this complaint) leads plaintiff to believe. Furthermore, the plaintiff is led to believe that the university and the union—with the New Jersey Mediation Board's complicity—have engaged in such practices in the case of other Rutgers professors. These and a number

of other concerned individuals on and off campus indicated to the plaintiff that they will testify in his behalf. Fraud, collusion and conspiracy between the university and the union to interfere with plaintiff's civil rights went much further: at no time has plaintiff met or seen or heard from the arbitrator, nor despite written request did the union clear with the plaintiff its brief to arbitrator, nor have there been any hearings held by the arbitrator where plaintiff could give testimony or could have professors, staff, students and others testify at the hearings, nor has plaintiff ever been supplied with any rulings issued by the arbitrator, nor has the arbitrator himself sent the plaintiff anything despite repeated written requests, while the parties carried on their deceit, fraud and criminality (Exhs. 11, 12, 13, 14 and 15).

8. On November 11, 1985 plaintiff filed a charge against the employer with the Equal Employment Opportunity Commission (EEOC) at its field office in Philadelphia, Pennsylvania and four subsequent charges on May 8, 1986, January 30, 1987, March 18, 1987 and July 22, 1987; and kept the EEOC informed of employer's blatant, brutal and massive retaliation against plaintiff (Exhibits 16a through 16f, and others). The EEOC gave increasing indications of repeatedly ignoring documented evidence of employer's unlawful discrimination and retaliation against the plaintiff, while the employer stepped up their unlawfulness (Exh. 17a to 26, and others). There were strong and repeated indications of EEOC personnel being coerced and intimidated by other agencies of the United States Government. Plaintiff is led to believe that among others, U.S. Dept. of Justice's Federal Bureau of Investigation, Immigration and Naturalization Service; and apart from them the U.S. Dept.

Education are involved. Additionally, the U.S. Attorney for New Jersey, Asst. Attorney General for Civil Rights, and former Attorney General Edwin Meese, in keeping with the Reagan-Meese declared hostility toward Civil Rights and Affirmative action, were litigably involved (42 USC 1986 and 1985(2), among others). Several of the latter involved New Jersey State agencies including the New Jersey Division of State Police and the New Jersey Attorney General in a conspiracy to interfere with plaintiff's civil rights (Exhibits 27 to 36, et al.).

9. Rutgers University, in collusion and conspiracy with parties on and off campus, built fraudulant and fraudulantly contrived dossiers on plaintiff, and latter are denied to plaintiff. Todate, Rutgers has denied plaintiff copies of his "complete–and so certified" files (Exh. 25a to 25d, and others).

10. Rutgers University and their Federal Government and other collaborators have rendered plaintiff unable to find a job anywhere in the country, despite initial very strong interest shown by numerous prospective employers across the country. In such activity Rutgers colluded with national educational organizations as well as with Federal agencies who actively worked to plaintiff's detriment.

11. Rutgers University used totalitarian and oppressive tactics in dealing with faculty; and an environment of intense fear and oppression prevails among Rutgers faculty and staff (Exh. 37, and others).

12. William Bradford Reynolds, Asst Attorney General for Civil Rights; and Samuel Alito, Jr., U.S. Attorney for New Jersey knew of and wilfully and knowingly looked the other way (and thus aided) plaintiff's abridgement of civil rights (Exh. 27 to 36D, et al.).

13. Rutgers University, other defendants and others potentially defendants carried their campaign of malice to discredit plaintiff into the community of Southern New Jersey as well. Among others the Collingswood Lions Club to which plaintiff belonged and others associated with the New Jersey State Republican Party were involved.

14. The contrived, questionable and unlawful "arbitration exercise" of the university and the union must be set aside.

15. Equal Employment Opportunity Commission's Right to Sue letters are enclosed as they are required (only) for that part of the complaint which relates to title VII of the Civil Rights Act of 1964, as amended, and other applicable statutes. (Exh. 42 to 44).

16. *Injury Sustained by Plaintiff*: The plaintiff has sustained the following harm and injury: (a) Plaintiff's career path has suffered irreparable harm and injury on account of his suddenly being placed when he was employed by Rutgers University at an entry level position, after having reached a Full Professorship and Directorship of a Graduate Program in Business Management prior to coming to Rutgers; (b) Plaintiff has been defamed, maligned and has been ostracized and humiliated; his standing in the profesional community has suffered irreparable harm; (c) Plaintiff has been blocked from suitable employment consistent with his career path, and in effect has been blacklisted by Rutgers and their associates. Plaintiff is currently unemployed. (d) Plaintiff has suffered anguish, pain, suffering and humiliation; and has further suffered social ostracization.

17. *Relief Sought*: Wherefore, plaintiff prays the court for the following relief:

(1) A judgment ordering defendant Rutgers, the State University of New Jersey, to (a) take plaintiff back as its employee with the rank of a Full Professor and additionally as director of a Graduate Business Program or a similar position at its Camden Campus, at a salary (to be paid retroactively to plaintiff) equal to the average salary of a Full Professor in plaintiff's former department; (b) to pay plaintiff a sum of $2,000,000- as compensation for the irreparable harm done to his professional career and reputation, plus punitive damages; (c) to pay plaintiff a further sum of $1,000,000- as compensation for defaming and maligning the plaintiff, plus punitive damages; (d) to pay plaintiff a further sum of $1,000,000- to compensate for the pain, suffering and humiliation to which plaintiff has been subjected by the university's actions, plus punitive damages.

(2) A judgment against the faculty union: Rutgers Council of AAUP Chapters ordering it to pay plaintiff a sum of $2,000,000- as compensation for injury to his professional career and career path resulting from its actions.

(3) A judgement against the New Jersey Division of State Police ordeing them to pay plaintiff $1,000,000- for the defamation, ostracization, pain, suffering, and humiliation plaintiff suffered as a consequence of their actions;

(4) A judgment against the Federal Bureau of Investigation ordering it to pay plaintiff a sum of $2,000,000- in damages for injuries he sustained as a consequence of their actions;

(5) An order to the Attorney General of the United States to immediately take appropriate measures to fully investigate and bring to justice the U.S. Attorney's office

in New Jersey, the office of the Asst. Attorney General for Civil Rights, The U.S. Dept of Education, The Immigration and Naturalization, the Attorney General of New jersey, and the Defendants listed in this complaint.

(6) Issue an order to appropriate Federal authorities to arrange for and assure the safety and security of the plaintiff, his family, and his residence—this in view of State and Federal apparatus' hostile and criminal inclinations toward plaintiff.

(7) A judgement for costs, interest, reasonable attorney's fees, and such other relief as the honorable court may deem fit.

(8) A judgment against the Immigration and Naturalization Service of the United States Dept. of Justice to pay plaintiff $2,000,000- for malicious defamation of and economic injury to the plaintiff.

Jury Demand

/s/ Jay B. Bright, Ph.D.

Jay B. Bright, Ph.D. 9-21-1988
Plaintiff

Enclosures:
As listed in each paragraph

APPENDIX B

United States District Court
For the District of New Jersey

Civil Action Docket #88 4115 SSB

Jay B. Bright, Ph.D.

plaintiff

v.

Rutgers, The State University of
New Jersey, et al

defendants

MOTIONS

Returnable: January 20, 1989

THE PLAINTIFF, Jay B. Bright, moves this honorable court as follows:

* * *

2. *MOTION NO. 2: The Plaintiff further moves this honorable court to take urgent steps to assure personal safety of the plaintiff and members of his immediate family, and further to guarantee plaintiff and members of his immediate family use of United States mail service and telephone service free of any interference of any kind, these being among fundamental constitutional rights of us all Americans, and further since interference with these has made impossible plaintiff's pursuit of his (legitimate interests and particularly) interests related to the pursuit of work related this law suit.* SEE IN THIS

regard, among other, plaintiff's letter of October 4, 1988 to the Hon. U.S. Magistrate Mr. Simandle. FUPTHER-MORE, on Dedember 8, 1988, plaintiff has supplied information to the Federal Bureau of Investigation, U.S. Dept of Justice, and to the Camden County Prosecutors' Office of an ongoing conspiracy involving organizations and individuals largely in Southern New Jersey associated with defendant Rutgers University among others, to among other things, bring about physical harm to the plaintiff and his family.

* * *

ENCLOSURES

/s/ Jay B. Bright, 12-15-1988
Jay B Bright, Ph.D. / Plaintiff
212-B Hillcrest Avenue
Collingswood New Jersey 08108

* * *

APPENDIX C

NOT FOR PUBLICATION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Civil Action #88-4155(SSB)

JAY B. BRIGHT,

Plaintiff,

v.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY, et al.,

Defendants.

OPINION

APPEARANCES:

MR. JAY B. BRIGHT
212 Hillcrest Avenue, #B
Collingswood, NJ 08108
Plaintiff, *pro se*

VOGEL, CHAIT, SCHWARTZ & COLLINS
BY: ARON M. SCHWARTZ, ESQ.
Maple Avenue at Miller Road
Morristown, NJ 07960
Attorneys for Rutgers, The State
University of New Jersey

REINHARDT & SCHACHTER, P.C.
BY: DENISE REINHARDT, ESQ.
744 Broad Street, Suite 3100
Newark, NJ 07102
Attorneys for Rutgers Council of
AAUP Chapters

OFFICE OF THE ATTORNEY GENERAL
OF NEW JERSEY
BY: WALTER LUCAS, ESQ.
New Jersey Department of Law and Public Safety
Division of Law, Claims Service Section
Richard J. Hughes Justice Complex CN 116
Trenton, NJ 08635
Attorney for New Jersey Division
of State Police

OFFICE OF THE U.S. ATTORNEY
BY: DOROTHY DONNELLY, ASSISTANT
U.S. ATTORNEY
402 East State Street, Room 265
Trenton, NJ 08608
Attorney for U.S. Department of Justice

BROTMAN, District Judge.

Plaintiff has filed suit against several defendants as a result of the expiration of his term of employment as an assistant professor and lecturer at Rutgers, The State University of New Jersey. Presently before the court are the plaintiff's motions (1) for entry of default judgment against defendants State of New Jersey Division of State Police ("Division of State Police") and Rutgers Council of AAUP Chapters ("Rutgers AAUP"), and (2) for relief to assure the personal safety of plaintiff and his family. Also before the court is defendant Division of State

Police's cross-motion for enlargement of time to answer or plead. For the reasons set out below, the court will deny the plaintiff's motions and will grant the cross-motion of defendant Division of State Police for enlargement of time.

The court cannot enter a default judgment against the Division of State Police because fairness mandates that it enlarge that defendant's time to answer. "A defendant shall serve an answer within 20 days after the service of the summons and complaint upon that defendant . . . ." Fed. R. Civ. P. 12(a). Defendant Division of State Police has asked this court to extend its time to answer plaintiff's complaint because it failed to provide the Attorney General's office with a copy of the summons and complaint within 20 days. The Division of State Police claims that it has meritorious defenses to the instant action and it would be severely prejudiced by entry of a default judgment against it. The court may, for cause shown, enlarge a defendant's time to answer where that defendant's failure timely to do so resulted from excusable neglect. Fed. R. Civ. P. 6(b). Because the court finds the Division of State Police's neglect in this matter excusable, in the interest of fairness the court will enlarge the time in which that defendant must answer plaintiff's complaint to permit it to answer or file responsive pleadings within 20 days of receipt of this opinion and accompanying order. Since the court is enlarging this defendant's time to respond, it cannot enter a default judgment at this time.

The court cannot enter a default judgment against defendant Rutgers AAUP. "The time within which to answer or reply may, before its first expiration and with or without notice, be extended once for a period not to exceed 15 days on order granted by the Clerk." D.N.J.

R. 13(B). The court clerk granted such an extension and Rutgers AAUP filed its answer within the extra 15-day period. Consequently, that defendant is not in default and the court cannot enter a default judgment against it.

The court is without power to grant plaintiff's motion for relief to secure the personal safety of him and his family. Plaintiff's request for relief is as follows:

> MOTION NO. 2: The plaintiff further moves this honorable court to take urgent steps to assure personal safety of the plaintiff and members of his immediate family use of United States mail service and telephone service free of any interference of any kind, these being among fundamental constitutional rights of us all Americans, and further since interference with these has made impossible plaintiff's pursuit of his (legitimate interests and particularly) interests related to the pursuit of work related this law suit.

In support of his motion plaintiff refers to his allegations of "an ongoing conspiracy involving organizations and individuals largely in Southern New Jersey associated with defendant Rutgers University among others, to among other things, bring about physical harm to the plaintiff and his family." In essence, plaintiff has asked this court for injunctive relief. To establish entitlement to such relief, a plaintiff must establish (1) a reasonable probability of success on the merits; (2) irreparable injury; (3) that balancing the equities requires relief; and (4) that injunctive relief is in the public interest. *United States v. Price*, 688 F.2d 204, 211 (3d Cir. 1982); *Kershner v. Mazurkiewicz*, 670 F.2d 440, 443 (3d Cir. 1982). Because plaintiff has not put forth anything more than bare allegations of harm, he has not met his burden of

proof. Consequently, the court must deny such relief at this time.

An appropriate order will be entered.

/s/ Stanley S. Brotman
Stanley S. Brotman
United States District Judge

DATED: January 19, 1989

APPENDIX D

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Civil #88 4115 SSB

Dr. Jay B. Bright

Plaintiff

v.

Rutgers, The State University, et al

Defendants

PLAINTIFF'S MOTIONS

Returnable: March 3, 1989

THE PLAINTIFF, Dr. Jay B. Bright, moves this honorable court as follows:

* * *

2. *Motion No. 2*: The plaintiff further moves this honorable court to (a) Remove the Honorable Judge Stanley s. Brotman from this case for his demonstration of bias against plaintiff, and (b) Have this case transferred to another judge. Plaintiff offers the following observations in support of this motion:

(i) Judge Brotman in his opinion signed on January 19, 1989—which is part of the permanent record of the case since it has been entered in the Docket Sheet—demonstrated bias in that in his opeining paraagraph (see page 2 of the Opinion) he knowingly, willfully and premeditatedly distorts facts of plaintiff's complaint. Judge Brotman knows very well from paragraphs 5 and 17 of

plaintiff's complaint and from exhibits 16a et seq of the complaint, q.v., among other, that an important thrust of plaintiff's complaint *and* of the remedy sought is that the plaintiff was improperly and unlawfully discriminated against *at the point of hire*. Yet Judge Brotman, knowingly, wilfully and premeditatedly states in his Opinion (Exhibit 5) which is for all concerned—including a Jury and other Courts—to be guided by that: "Plaintiff has filed suit against several defendants as a result of the expiration of his term of employment as an assistant professor and lecturer . . .". Judge Brotman is blatantly distorting plaintiff's comlaint to plaintiff's detriment, and further untruthfully advocates for defendant Rutgers university and for other defendants. Judge Brotman knows the distinction between "subsequent to" and "as a result of"—POST HOC ERGO PROPTER HOC—and yet in his Opinion he uses the latter to plaintiff's detriment.

(ii) It is to be noted that Judge Brotman wrote said Opinion *subsequent to* having read plaintiff's Reply to Rutgers University's answer to plaintiff's motions returnable 1/20/1989 (Exhibit 2).

(iii) Again, in the same opinion, Judge Brotman, knowingly, wilfully, premeditatedly and to plaintiff's detriment refers only to half of plaintiff's material on Motion no. 2 returnable 1-20-1989: See pages 3 and 4 of his said Opinion, deliberately leaving out comment on plaintiff's specific and detailed indictments of extreme unlawfulness by various defendants.

(iv) Furthermore, Judge Brotman has captioned his said Opinion "NOT FOR PUBLICATION" thus attempting to obstruct scrutiny.

3.00 *Motion No. 3*: The plaintiff further moves this honorable court to have the court immmediately subse-

quent to the return date for these motions, forward copies of all the materials gathered by the Court, Hon. Judge Brotman, and Hon. Magistrate Simandle to the Attorney General of the United States with an urgent request that he forthwith appoint a Special Prosecutor to work with this Court in the adjudication of this case; and further that the Court similarly fully apprise the Chairmen of the U.S. Senate Committee on the Judiciary and the Committee on the Judiciary of the U.S. House of Representatives.

February 3, 1989
Date

/s/Jay B. Bright, Ph.D.
Plaintiff

APPENDIX E

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Civil #88-4115 SSB

March 3, 1989

Plaintiff's URGENT PETITIONS as follows

Jay B. Bright, Ph.D.

Plaintiff

v.

Rutgers, The State University, et al

Defendants

plaintiff's URGENT PETITIONS as follows:

* * *

5. Urgent Petition No. 5: The plaintiff further urgently petitions this honorable court to consider and act upon FURTHER CONCERNS—see here, among other, plaintiff's Motions returnable 3-3-1989; Plaintiff to Hon Mag Simandle, 10-4-1988; Complaint paragraphs 3, 12 and 13, among others—OF THE PLAINTIFF IN REGARD TO THE INTEGRRITY AND INDEPENDENCE OF THIS HONORABLE COURT.

The plaintiff, in his February 14, 1989 petition to the court—q.v.—had requested Continuance of FBI+INS' "motion hearing" to April 7, 1989, and yet the Honorable Judge Brotman wrote in a letter showing the date 2-15-1989: Exhibit 5 attached herewith, conveying the

misleading impression on all objective readers that plaintiff had somehow requested continuance to March 17, 1989. The envelope in which the letter came shows no date stamp: Exh 6, as it normally should–NONE OF THE LETTERS FROM THIS COURT *AND* THE U.S. DEPT. OF JUSTICE SHOW DATE STAMPS WHILE THEY NORMALLY SOULD. This court, in all fairness needs to investigate if the fact that Judge Brotman has had over twelve years of contacts with defendant Rutgers University situated one block from the Court House, Judge Brotman's extremely close ties with the leaders of defendant Rutgers University an overwhelmingly Jewish dominated institution and the Honorable Judge Brotman being an active leader for years in the local Jewish community; Judge Brotman's Clerk Bloustein's ties with defendant Rutgers University (Bloustein being also of the Jewish faith) and Clerk Bloustein's appointment at or about the time of plaintiff's filing of this complaint (as of Deputy Clerk of the Court Paul Taylor a recent Rutgers University employee: see Plaintiff to Hon Simandle, 10-4-1988 among other). These are plaintiff's concerns and the Court needs to fairly look into these.

FURTHERMORE, the plaintiff also requests a thorough investigation of the following as plaintiff experienced it: ON 2-14-1989 olaintiff was typing his 2-14-1989 sbmission to this honorable court, he got a telephone call from his daughter at Collingswood Junior High School that she was sick and if plaintiff could pick her up; plaintiff left the papers on his desk and rushed to the school. Plaintiff believes the "Police Apparatus" (Federal, State, Local Police *and* people they use/employ/get/ as volunteer vigilantees), as historically, entered plaintiff's apartment when he was away, photographed plaintiff's 2-14-1989 submission, conveyed it to defendants FBI/

their cohorts (and other defendants); Counsel for FBI (and INS) received Fax copies of plaintiff's said submission, wrote up a letter to plaintiff (Exh 7) *backdating* it to 2-10-1989, and had the mailman deliver it to plaintiff's residence on 2-14-1989 (Exh 8). Plaintiff's papers on his desk had been shifted. SUCH SCENARIO TOOK PLACE REPEATEDLY WHILE PLAINTIFF WAS EMPLOYED AT RUTGERS UNIVERSITY. These are plaintiff's concerns and the court needs to look into these fairly as plaintiff believes they represent a prostitution of the Judicial system and of Justice and of this Honorable Court by a Police State apparatus led and fostered by the Executive Branch of the Government of this great country of ours, and exemplify for the nth time a Police State environment to which plaintiff has been subjected for four years at Rutgers University and in New Jersey.

March 3, 1989 /s/ Jay B. Bright/3-3-1989
Plaintiff

APPENDIX F

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Civil #88 4115 SSB
March 13, 1989

Plaintiff's Elaboration of his 3-3-1989 Petition #3

Dr. Jay B. Bright

plaintiff

Rutgers University, et al

defendants

PLAINTIFF"S ELABORATION of his 3-3-1989 Petition #3:

* * *

5. Plaintiff deems it essential to avoid as much as possible travel on highways, as he fears for his life (as he does for the lives of his wife and children)—plaintiff has experienced in the past four years repeated attempts on his life, including but not limited to those involving attempts to crush plaintiff in his automobile—please see in this regard among other (i) Complaint para 17.6; (ii) The transcript of the 1-4-1989 Court Conference; (iii) Plaintiff to U.S. Representative James Florio—D-New Jersey, dated July 6, 1987—*copy attached*; such attempts and others including but not limited to use of biochemical/gas/germ weapons being used on plaintiff continually, ongoingly and presently and increasing in intensity.

* * *

March 13, 1989 /s/ Jay B. Bright/3-13-1989
plaintiff

U.S. Rep. Florio, D-NJ — Jay B. Bright, Ph.D.

Dear Congressman Florio, — July 6, 1987

1.00 Re the EEOC: On July 2, 1987 I went to the office of the EEOC's Dist Dir, Mr. Butler, at 127 N. 4th St, Philadelphia, PA. As always, he had disappeared by the time I reached his office. His secretary, Ms Shakelford, took my papers (*copy enclosed*).

Now comes the main part: as with postal clerks, the Federal/State police train all involved to deceive and to commit fraud. Upon my insistence, Ms Shakleford "time stamped" both my papers and the receipt (see enclosure) showing June 32, 1987 on both my papers and the receipt! (see enclosure). Upon my polite but firm insistence she then changed the date on her own date-stamper to July 2, '87 (see enclosure). The Federal/State apparatus tail me/tap my home and office 'phones, and precede me, and then, if people knuckle under (most do) corrupt them and train them to deceive and defraud. At Rutgers, numerous professors, staff, secretaries, and students have been so used.

1.01 Investigation by Congressional Committee(s) is called for. I am apprising U.S. Rep. Bill Gray of Philadelphia of the matter also.

2.01 Stepped-up attempts by the New Jersey State Police/Federal Apparatus to physically hurt me: Last Monday, June 29, '87, I obtained from your Woodbury office U.S. Rep Bill Gray's, and Immigration and Naturalization Service's, addresses. On the way home from Woodbury, as usual, unmarked old vehicles tailed me—this time, however, one repeatedly tried to side-swipe me and another one crossed me in the front. On Tuesday *and* Wednesday huge commercial trucks tried to hurt

me—one came at me on my side of the road: by God's grace I swerved in a split' second and survived. You see, State and Federal agencies are deeply involved in my matter against Rutgers (a large, powerful organization).

* * *

Respectfully Submitted,

/s/ Jay B. Bright, Ph.D.

APPENDIX G

NOT FOR PUBLICATION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Civil Action #88-4115 (SSB)

JAY B. BRIGHT,

Plaintiff,

v.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY, *et al.*,

Defendants.

OPINION

APPEARANCES:

JAY B. BRIGHT, *pro se*
212 Hillcrest Avenue, #B
Collingswood, NJ 08108

VOGEL, CHAIT, SCHWARTZ & COLLINS
BY: ARON M. SCHWARTZ, ESQ.
Maple Avenue at Miller Road
Morristown, NJ 07960
Attorneys for Rutgers, The State
University of New Jersey

REINHARDT & SCHACHTER, P.C.
BY: DENISE REINHARDT, ESQ.
744 Broad Street, Suite 3100
Newark, NJ 07102
Attorneys for Rutgers Council of
AAUP Chapters

OFFICE OF THE ATTORNEY GENERAL
OF NEW JERSEY
BY: WALTER LUCAS, ESQ.
New Jersey Department of Law and Public Safety
Division of Law, Claims Service Section
Richard J. Hughes Justice Complex – CN 116
Trenton, NJ 08635
Attorney for New Jersey Division of
State Police

OFFICE OF THE U.S. ATTORNEY
BY: DOROTHY DONNELLY,
ASSISTANT U.S. ATTORNEY
402 East State Street, Room 265
Trenton, NJ 08608
Attorney for U.S. Department of Justice

BROTMAN, District Judge.

Plaintiff has filed suit against Rutgers, The State University of New Jersey ("Rutgers"), the New Jersey Division of State Police ("Division of State Police"), and other defendants charging discrimination and other unlawful conduct arising out of his employment as an assistant professor and later lecturer at Rutgers. Presently before the court are plaintiff's motions (1) to amend the docket sheet for this case; (2) for me to recuse myself from this case; (3) for this court to request the Attorney General of the United States to appoint a special prosecu-

tor in this case; and (4) to order defendant Rutgers to appoint plaintiff to the position of "Court Ordered Provisional Professor." Also before the court is defendant Division of State Police's cross-motion to dismiss. For the reasons set forth below, the court will deny plaintiff's motions and will grant the motion of the Division of State Police.

Plaintiff first contends that the court should order the court clerk to amend the docket sheet to reflect the filing of plaintiff's various reply briefs and a letter to the United States Attorney. It is the practice of the court clerk not to docket and retain letters and briefs: instead, the clerk stamps them "filed" and transmits them to the appropriate judge's chambers. The court must therefore deny plaintiff's request to amend the docket sheet.

Plaintiff next asks me to recuse myself from this case because (a) the court's previous opinion in this matter allegedly misstated the nature of the plaintiff's lawsuit; (b) the court's opinion of January 19, 1989, in this matter was written after I allegedly read plaintiff's reply papers regarding another motion returnable January 20, 1989; (c) the court's January 19th opinion referred to only half of plaintiff's material on his "Motion No. 2"; and the January 19th opinion was not designated for publication. A judge must recuse himself or herself "in any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. § 455(a). Specifically, a judge cannot participate in a matter "[w]here he has a personal bias or prejudice concerning a party . . . ." *Id.* § 455(b); *see id.* § 144. The court must measure plaintiff's motion to recuse by an objective standard by determining whether a reasonable person would perceive bias or prejudice. *United States v. Greenough*, 782 F.2d 1556, 1558 (11th Cir. 1986). Moreover, "The alleged bias must

stem from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case." *United States v. Grinnell*, 384 U.S. 563, 583 (1966); *accord Johnson v. Trueblood*, 629 F.2d 287, 291 (3rd Cir. 1980), *cert. denied*, 450 U.S. 999 (1981). The court finds that none of plaintiff's allegations present reasonable grounds upon which judicial bias or prejudice could be perceived. Furthermore, none of plaintiff's allegations points to bias or prejudice stemming from beyond the merits of his lawsuit. The court must therefore deny plaintiff's motion to recuse.

Plaintiff further asks this court to

> forward copies of all the materials gathered by the Court, Hon. Judge Brotman, and Hon Magistrate Simandle to the Attorney General of the United States with an urgent request that he forthwith appoint a Special Prosecutor to work with this Court in the adjudication of this case; and further that the Court similarly fully apprise the Chairmen of the U.S. Senate Committee on the Judiciary and the Committee on the Judiciary of the U.S. House of Representatives.

Plaintiff has failed to supply the court with either a factual or a legal basis for doing so, and therefore the court must deny plaintiff's request.

Plaintiff also asks the court to order Rutgers to reinstate him "with a salary reflecting his latest paycheck and with a job title of 'Court Ordered Provisional Professor' with the understanding that in the interest of continuity of plaintiff's employment he be paid back wages as well going back to the day he was terminated from his employment . . . ." In essence plaintiff asks for summary

judgment as well as injunctive relief. First, the plaintiff has not demonstrated to the court the absence of any genuine issues of material fact, and consequently summary judgment is inappropriate at this time. Second, plaintiff has failed to make a sufficient showing for the court to grant injunctive relief. To obtain such relief a plaintiff must establish (1) a reasonable probability of success on the merits; (2) irreparable injury; (3) that balancing the equities requires relief; and (4) that injunctive relief is in the public interest. *United States v. Price*, 688 F.2d 204, 211 (3d Cir. 1982); *Kershner v. Mazurkiewicz*, 670 F.2d 440, 443 (3d Cir. 1982). Because plaintiff has failed to meet his burden, especially with regard to irreparable injury, the court must deny the requested injunctive relief.

Finally, defendant Division of State Police has moved to dismiss plaintiff's complaint on the grounds that the eleventh amendment, U.S. Const. amend. XI, bars this lawsuit. The eleventh amendment prevents any suit by a citizen of a state against any state in federal court. *Hans v. Louisiana*, 134 U.S. 311 (1890); *see Edelman v. Jordan*, 415 U.S. 651, 663 (1974). The eleventh amendment bar does not apply where a plaintiff seeks prospective injunctive relief against a particular state official rather than against the state itself. *Ex Parte Young*, 209 U.S. 123 (1908); *Edelman*, 415 U.S. at 663-68. Plaintiff's lawsuit against the Division of State Police is in essence a lawsuit against the State of New Jersey. *See Urbano v. Board of Managers of New Jersey State Prison*, 415 F.2d 247, 250-52 (3d Cir. 1969), *cert. denied*, 397 U.S. 948 (1970). Because this action does not fit into any exception to the eleventh amendment bar, the court must dismiss the complaint against the Division of State Police.

An appropriate order will be entered.

/s/ Stanley S. Brotman
Stanley S. Brotman
United States District Judge

DATED: March 14th 1989

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Civil Action #88-4115 (SSB)

JAY B. BRIGHT,

Plaintiff,

v.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY, *et al.*,

Defendants.

ORDER

This matter having come before the court on plaintiff's motions (1) to amend the docket sheet, (2) to recuse, (3) for this court to request the Attorney General of the United States to appoint a special prosecutor, and (4) to order defendant Rutgers, The State University of New Jersey ("Rutgers") to appoint plaintiff to the position of "Court Ordered Provisional Professor," and on defendant New Jersey Division of State Police's ("Division of State Police") cross-motion to dismiss; and

The court having considered the submissions of the parties; and

For the reasons set forth in the court's opinion of this date;

IT IS on this 14th day of March, 1989, hereby

ORDERED that

(1) plaintiff's motion to amend the docket sheet is DENIED;

(2) plaintiff's motion to recuse is DENIED;

(3) plaintiff's motion to order defendant Rutgers to appoint him to the position of "Court Ordered Provisional Professor" is DENIED; and

(4) defendant Division of State Police's motion to dismiss plaintiff's complaint is GRANTED and the complaint against the Division of State police is DISMISSED WITH PREJUDICE.

No costs.

/s/ Stanley S. Brotman
Stanley S. Brotman
United States District Judge

APPENDIX H

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Civil Action No. 88-4115 (SSB)

JAY B. BRIGHT,

Plaintiff,

vs.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY, *et al.*,

Defendant.

AMENDED ANSWER ON BEHALF OF DEFENDANT,
RUTGERS, THE STATE UNIVERSITY OF
NEW JERSEY

Defendant Rutgers, The State University of New Jersey (hereafter, the "University") by way of answer to the complaint says:

1. The University admits that the plaintiff in this action is Jay B. Bright and that he filed this action *pro se*. Otherwise, the University has insufficient knowledge or information either to affirm or deny the remainder of allegation 1.

2. The University admits that it is a defendant in this action and that it is a public institution. The University does not understand that part of the allegation relating to the "principal representative being the officer in charge of the University's Camden campus and others with

whom he/she works directly or indirectly . . ." and therefore does not respond. The University denies causing any injury to plaintiff. The University admits that the other co-defendants in this action are those who have been so named.

3. The University does not understand allegation 3 of the complaint and therefore does not respond.

4. This allegation relates to the jurisdiction of the Court and does not set forth any factual allegations which require either affirmance or denial.

5. The University admits that plaintiff was employed by the University from July 1, 1984 to June 30, 1987 as an Assistant Professor and from July 1, 1987 to June 30, 1988 as a Lecturer. The University has insufficient independent knowledge or information either to affirm or deny the remainder of allegation 5.

6. The University admits that plaintiff began his employment at the University in July, 1984 at the salary of $30,140.00 per academic year. The remainder of allegation 6 is denied.

7. The University denies the first and second sentences of allegation 7.

With respect to the third sentence of allegation 7, the University states that two grievances were filed pursuant to the grievance procedure contained in the contract between the University and the faculty union; that the University found the first grievance to be untimely and aspects of the second grievance to be untimely as well; that the first grievance was not pursued beyond the first step of the grievance procedure; that plaintiff refused to attend a meeting concerning the second grievance; that the timeliness issue concerning the second grievance was

taken to arbitration; that the arbitrator found one additional allegation of the second grievance to be timely; that the University made a step one determination adverse to plaintiff on the merits of the timely allegations of the second grievance; and that the second grievance was thereafter not pursued beyond the first step of the grievance procedure. Otherwise, the third sentence of allegation 7 is denied.

The University denies the fourth sentence of allegation 7.

The University has insufficient knowledge or information either to affirm or deny the fifth and sixth sentences of allegation 7.

The University denies the seventh sentence of allegation 7.

With respect to the eighth sentence of allegation 7, the University states that the contract between the University and the faculty union requires that arbitrators be selected by means of written request to the State Mediation Service. Otherwise, the University denies the eighth sentence of allegation 7.

With respect to the ninth and tenth sentences of allegation 7, the University has insufficient information either to affirm or deny what plaintiff believes.

The University has insufficient information either to affirm to deny the eleventh sentence of allegation 7.

With respect to the twelfth sentence of allegation 7, the University has insufficient knowledge or information either to affirm or deny the statements pertaining to meetings and communications between and among plaintiff, the arbitrator, and the faculty union. The University denies the remainder of the twelfth sentence of allegation 7.

8. As to the first sentence of allegation 8, the University admits being served with three charges dated November 14, 1985, May 8, 1986, and March 18, 1987, respecrively; admits receiving a document dated January 30, 1987 entitled "Brief" but denies that that document is a charge; has insufficient knowledge or information either to affirm or deny the contention regarding a charge supposedly filed on July 22, 1987; and denies the remainder of the first sentence of allegation 8.

The University denies the second sentence of allegation 8.

The University has insufficient knowledge or information either to affirm or deny the remainder of allegation 8.

9. The University denies allegation 9.

10. The University denies that it has rendered plaintiff unable to find a job anywhere in the country and that it colluded with national educational organizations and federal agencies. Otherwise, the University has insufficient knowledge or information either to affirm or deny the remainder of allegation 10.

11. The University denies allegation 11.

12. The University has insufficient knowledge or information either to affirm or deny allegation 12.

13. The University denies that it carried out any campaign of malice to discredit plaintiff; the University has insufficient knowledge or information either to affirm or deny the remainder of allegation 13.

14. The University denies allegation 14.

15. Allegation 15 states no facts which require either affirmance or denial.

16. The University denies allegation 16.

17. Allegation 17 constitutes plaintiff's prayer for relief and accordingly does not require either affirmance or denial.

FIRST SEPARATE DEFENSE

Plaintiff's claims are barred by the applicable statutes of limitations.

SECOND SEPARATE DEFENSE

To the extent plaintiff asserts a claim under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, plaintiff's claim is barred for failure to comply with the administrative procedures and prerequisites contained in Title VII.

THIRD SEPARATE DEFENSE

The complaint fails to set forth a cause of action.

FOURTH SEPARATE DEFENSE

The complaint fails to state facts upon which to base a claim for relief.

FIFTH SEPARATE DEFENSE

Plaintiff's claims are barred as a result of his failure to exhaust internal remedies.

SIXTH SEPARATE DEFENSE

All actions of defendant Rutgers, The State University of New Jersey, or its officers, employees, or agents, were based on legitimate, non-discriminatory reasons.

SEVENTH SEPARATE DEFENSE

Defendant Rutgers, The State University of New Jersey, and its officers, employees, or agents were at all

times acting in good faith and therefore the University is entitled to qualified immunity.

EIGHTH SEPARATE DEFENSE

To the extent that plaintiff asserts a claim under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, plaintiff's claim is barred by virtue of the fact that it is beyond the scope of the charges filed by the plaintiff with the Equal Employment Opportunity Commission.

WHEREFORE, defendant Rutgers, The State University of New Jersey demands judgment dismissing the complaint, awarding attorneys' fees and costs of suit, and awarding such other relief as the court may deem appropriate.

VOGEL, CHAIT, SCHWARTZ AND COLLINS
A Professional Corporation

By: /s/ Aron M. Schwartz
Aron M. Schwartz

DATED: 3/31, 1989

CERTIFICATION

I hereby certify that the foregoing Amended Answer was filed within the time provided by Court order dated March 17, 1989, and in the manner provided by the Federal Rules of Civil Procedure and that a copy of the foregoing Amended Answer was served this date by certified mail, return receipt requested and by regular mail on

Jay B. Bright
212 Hillcrest Avenue, #B
Collingswood, New Jersey 08108

I further certify that a copy of the foregoing Amended Answer was served this date by regular mail on

Denise Reinhardt, Esq.
Reinhardt & Schachter, P.C.
744 Broad Street
Newark, New Jersey 07012

Walter Lucas, Esq.
Deputy Attorney General
Richard J. Hughes Justice Complex
CN 116
Trenton, New Jersey 08625

Dorothy Donnelly, Esq.
Assistant U.S. Attorney
401 Market Street
Newark, New Jersey 07102

/s/ Aron M. Schwartz
Aron M. Schwartz

DATED: 3/31, 1989

APPENDIX I

United States District Court
For the District of New Jersey

Docket #88 4115 (SSB)

Plaintiff's Various Motions Including Motions to Compel Discovery, et al.

Jay B. Bright, Ph.D.

Plaintiff

v.

Rutgers, the State University of New Jersey, *et al.*

Defendants

PLAINTIFF'S VARIOUS MOTIONS INCLUDING MOTIONS TO COMPEL DISCOVERY, EL AL.

* * *

9.00 *Motion No. 9 (Returnable October 6, 1989)*: The plaintiff further moves this honorable court to make arrangements with the U.S. Attorney to hold hearings "in Confidence" in regard to this case, as numerous individuals may then be able to testify without fear of retaliation from the University-Corporate-Government complex that bribed and/or coerced them to engage in blatantly unlawful activity a la "The Nuremberg Defense" effect. Plaintiff, as he has been at the receiving end of the brutalities and atrocities, can identify elected officials, corporate officials, University personnel, students, physi-

cians, shopkeepers, attorneys, personnel of this very court, shopkeepers, and individuals from across the country and India (where plaintiff was born) who were thus "used" by the University-Corporate-Government complex. The activities against the plaintiff ranged (and still continue) from fraudulently painting plaintiff 'bad', to entrapment, to murder of the plaintiff and of members of his family.

* * *

Date
September 11, 1989

Jay B. Bright, Ph.D., Plaintiff
/s/ Jay B. Bright, Ph.D.

APPENDIX J

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Civil Action #88-4155 (SSB)

JAY B. BRIGHT, Ph.D.,

Plaintiff,

v.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY, et al.,

Defendants.

ORDER

This matter having come before the court on plaintiff's motion captioned "alert and petition seeking denial to hear against motions of defendant Rutgers Council of AAUP"; and

The court having carefully considered the submissions of the parties; and

The court having determined that the motion is frivolous in that the court routinely grants parties additional time to respond as the court has discretion to change the return date of a motion, *see* Local Rule 12(c);

IT IS on this 30th day of October, 1989, hereby

ORDERED that plaintiff's motion is DISMISSED.

No costs.

/s/ Stanley S. Brotman
Stanley S. Brotman
United States District Judge

APPENDIX K

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Civil Action No. 88-4115(SSB)

JAY B. BRIGHT,

Plaintiff,

vs.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY, *et al.*,

Defendants.

NOTICE OF MOTION FOR SUMMARY JUDGMENT

TO: Dr. Jay B. Bright, *Pro Se*
212 Hillcrest Avenue
Collingswood, New Jersey 08108

Denise Reinhardt, Esq.
Reinhardt & Schachter, P.C.
744 Broad Street
Newark, New Jersey 07102

Dear Sir and Madam:

PLEASE TAKE NOTICE that on Friday, March 16, 1990 at 10:00 a.m. or as soon thereafter as counsel may be heard, the undersigned, attorneys for defendant Rutgers, The State University of New Jersey, will move

before the Honorable Stanley S. Brotman for an order of summary judgment dismissing plaintiff's complaint, pursuant to Fed. R. Civ. P. 56.

PLEASE TAKE FURTHER NOTICE that, in support of the aforesaid motion, defendant, Rutgers, The State University of New Jersey, relies upon the following:

1. The Affidavit of Peter Weissenberg;

2. Affidavit of Walter K. Gordon;

3. Plaintiff's answers to Rutgers' Interrogatories;

4. Portions of the transcript of plaintiff's deposition; and

5. Brief.

In accordance with the local rules governing the District Court for the District of New Jersey, pleadings responsive to this motion for summary judgment are to be filed no later than 14 days prior to the return date.

VOGEL, CHAIT, SCHWARTZ AND COLLINS
A Professional Corporation
Attorneys for Defendant
Rutgers, The State University
of New Jersey
Maple Avenue at Miller Road
Morristown, New Jersey 07960
(201) 538-3800

By: /s/ Aron M. Schwartz
Aron M. Schwartz

DATED: February 20, 1990

APPENDIX L

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Civil Action No. 88-4115(SSB)

JAY B. BRIGHT,

Plaintiff,

vs.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY, *et al.*,

Defendants.

AFFIDAVIT OF PETER WEISSENBERG

STATE OF NEW JERSEY:
: SS.:
COUNTY OF CAMDEN :

I, PETER WEISSENBERG, upon my oath, say:

1. I am employed by Rutgers, The State University of New Jersey (the "University") as a Professor at the University's School of Business, Camden Campus. From July 1, 1982 to June 30, 1987, I served as the Associate Dean of the Faculty of Business Studies (FBS), the predecessor to the School of Business in Camden. This Affidavit is made and submitted in connection with the University's Motion for Summary Judgment.

2. Among my duties and responsibilities as Associate Dean of FBS, as assigned by Dr. Walter Gordon, the Dean of FBS, was the oversight of recruitment and hiring of new faculty members. As a result, I became familiar with general university hiring practices and procedures. Because I was personally involved in the appointment of Dr. Jay Bright to the faculty of FBS, I have direct knowledge of the circumstances of his hiring. Consequently, the facts set forth herein are based upon personal knowledge.

3. As a result of two vacancies due to the resignation of FBS faculty members, I began a recruitment and search process in the fall semester 1983 to find replacements. At the time the recruitment process began, $27,084 was allocated to the faculty line which Dr. Bright ultimately filled. As of the time of the determination of the amount of funds available for that line, we had not received any inquiry or application from Dr. Bright indicating interest in that position or applications from any other candidates. Furthermore, when Dr. Bright first inquired about a position at FBS in February, 1984, we were well into the recruitment process and had received a number of applications for the position.

Attached as Exhibit A is a true and accurate copy of the job listing which was placed with the Financial Management Association Placement Clearing House in connection with the recruitment for the position ultimately filled by Dr. Bright. Prior to my receipt of Dr. Bright's initial inquiry regarding this position in February, 1984, the position had already been offered to several other candidates at the rank of assistant professor and a salary of no more than $27,084. Each of these three candidates declined the offer.

4. In February, 1984, I received a note from Dr. Bright indicating interest in a position at FBS. I responded to that inquiry by letter dated March 6, 1984 (a true and accurate copy of which is attached hereto as Exhibit B). In that letter I advised Dr. Bright that I was recruiting for faculty in his field and would consider him for a position provided that he furnished me with a complete vita. I further advised Dr. Bright that I was unsure whether any opening would be available since I was in the process of discussing possible contracts with two other junior faculty candidates. Dr. Bright then responded by letter dated March 23, 1984 (a true and accurate copy of which is attached hereto as Exhibit C). In that letter, Dr. Bright expressed interest in a position as a visiting faculty member at FBS with Rutgers. With respect to salary, Dr. Bright stated, "I have in mind a figure in the low thirties for the academic year."

5. By memorandum of May 17, 1984, Dr. Milton Leontiades, then Chairman of the Appointments & Promotions Committee (the "A & P Committee") in the FBS, reported to me that he and Dr. Izzetin Kenis, also a member of the A & P Committee had interviewed Dr. Bright. (A true and accurate copy of Dr. Leontiades' May 17, 1984 memorandum to me is attached hereto as Exhibit D.) Dr. Leontiades reported that both he and Dr. Kenis were "satisfied that Dr. Bright would be a worthwhile addition" to the FBS faculty as an assistant professor.

6. By memorandum of May 18, 1984, I wrote to Provost Walter Gordon requesting the appointment of Jay Bright as an Assistant Professor for a three-year term beginning July 1, 1984. (A true and accurate copy of my May 18, 1984 memorandum is attached hereto as Exhibit E.) In that memorandum, I also requested additional

funding, in the amount of $3,093, to bring Dr. Bright's starting salary to $30,177.

7. At the time plaintiff began his employment at the University on July 1, 1984, there were five other assistant professors in the FBS. The salaries of those faculty members ranged from $25,217 to $28,794. At that time, Dr. Bright's salary of $30,140 was the highest of all the assistant professors in FBS. These other assistant professors held either a Ph.D., an MBA, a J.D., or an LL.M.—each of which may be considered an appropriate terminal degree for FBS faculty, depending on one's field.

8. When I was Associate Dean of FBS, I was also responsible for making office assignments to new faculty in the FBS. The primary consideration in making office assignments was the availability of office space. In addition, an effort was made to place individuals with the same area of expertise in the same vicinity. This is done to encourage faculty interaction and professional development.

9. The primary location of the FBS faculty offices was in Victor Hall. As of September 1, 1984 when Dr. Bright began at the University, 13 FBS faculty members had offices on the sixth floor of Victor Hall and seven faculty members (including Dr. Bright) had offices on the fifth floor. In addition, three members of the FBS faculty had office assignments in Armitage Hall, another building on campus. At the time plaintiff was assigned his office in July, 1984, that office was the only one available. Moreover, it was particularly appropriate since it was on the same floor and in the same vicinity as the only other person specializing in finance, Dr. Bright's field.

/s/ Peter Weissenberg
PETER WEISSENBERG

Sworn and subscribed to
before me this 20th day
of February, 1990.

/s/ Margaret S. Ryan
My commission expires 8/19/90

ATTACHMENTS TO AFFIDAVIT
OF PETER WEISSENBERG
INTENTIONALLY OMITTED,
EXCEPT FOR EXHIBITS B & C

RUTGERS
The State University of New Jersey
Faculty of Business Studies
Camden, New Jersey 08102

March 6, 1984

Dr. Jay B. Bhatt, Director
PostGraduate Program in Business Management
Sauraschtra University
Rajkot Gujarat
360 005
India

Dear Jay:

Thank you very much for your note of February 6 indicating that you will be returning to the U.S. soon and might be interested in a position.

At the moment I am recruiting for faculty in the field of Finance again and will be glad to consider you. I do remember that after our last meeting and discussion we unfortunately concluded that you might not be able to make the rank of Associate Professor with Tenure here on our Faculty. However, if you will send me a complete vita again I will be glad to review it once more. In addition it is possible I may be seeking a visiting faculty member for one year only. If this happens to be the case, would you be interested? Probably in that case, I would be able to make it a Visiting Associate Professor. If you are interested, please do let me know as soon as possible and then I will get back with you.

Please realize that I am not sure these openings will be available since I am at present in the process of discussing possible contracts with two junior faculty candidates.

* * *

Cordially,

/s/ Peter
Peter Weissenberg
Associate Dean

SAURASHTRA UNIVERSITY
Postgraduate Programme in Business Management
Rajkot, Gujarat

March 23, '84

Dr. Peter Weissenberg
Associate Dean
Faculty of Business Studies
Rutgers, the State University
Camden, New Jersey, 08102

Dear Peter,

Thank you so very much for your letter of March 6th.

I have read your letter carefully, and it is my feeling that I could give serious consideration to a Visiting Associate Professorship in Finance with Rutgers/Camden for this coming academic year.

As for the salary amount, I have in mind a figure in the low thirties for the academic year. I will, incidentally, happily accept your decision in this regard since we seemed to be "on the same wavelength" on most things when we had detailed discussions in Washington.

* * *

Sincerely yours,

/s/ Jay B. Bright
Jay B. Bright, Ph.D.

APPENDIX M

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Civil Action No. 88-4115(SSB)

JAY B. BRIGHT,

Plaintiff,

vs.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY, *et al.*,

Defendants.

AFFIDAVIT OF WALTER GORDON

STATE OF NEW JERSEY :
: SS.:
COUNTY OF CAMDEN :

WALTER K. GORDON, being duly sworn, says:

1. I am employed by Rutgers, The State University of New Jersey (the "University") as Provost of the University's Camden Campus and have been Provost since July 1, 1981. In addition to serving as Provost, I also served as the Dean of the Faculty of Business Studies (FBS) at Camden from July 1, 1982 to June 30, 1986. This Affidavit is made and submitted in connection with the University's Motion for Summary Judgment. Accordingly, the facts set forth in this Affidavit are based upon my personal knowledge.

2. My duties as Provost are set out in University Regulation 2.31 which states:

> 2.31. The provost in Camden shall be the principal administrative officer for the Camden campus in respect of academic affairs, student life, business management, campus security, and physical plant operations. The provost shall provide overall policy direction for the deans of the several schools and colleges and for the directors of the aforementioned administrative departments on the Camden campus; shall administer personnel policies and procedures concerning both faculty and staff of those units and shall have responsibility for the proper maintenance of their personnel records; shall direct, with the advice of deans and directors, the planning and budgeting process for the campus as a whole; shall allocate resources among the several academic units and administrative departments; and shall provide general supervision of all academic and administrative affairs of and between the several units and departments, to ensure that their affairs are being carried out effectively and in accordance with the policies of the University. The provost shall be accountable to the president of the University.

University Regulations 2.41, 2.41A, and 2.41B defined my duties as Dean of FBS:

> 2.41. A dean or director shall be the principal officer of each academic unit of the University, e.g., college, graduate and professional school, institute, or center. This officer shall be charged with the supervision of the administration of that unit, to ensure that it is being carried out in accordance with the policies of the University.
>
> 2.41A. Each dean or academic director shall provide overall direction for the several department

chairpersons and directors of degree programs in that unit and shall lead the faculty and staff of the unit in the creation and implementation of effective programs of instruction, research, service, and student life.

2.41B. In the execution of these responsibilities, the dean or academic director shall review the academic programs of the several departments and degree programs of the unit, as well as the student life program of the unit as a whole, and shall develop with the advice of the department chairpersons the overall asking and working budgets for the unit. The dean or academic director shall supervise the overall personnel and budget administration of the unit, and shall be responsible for the maintenance of such personnel and fiscal records as are necessary for the proper exercise of these responsibilities.

I am consequently personally knowledgeable and familiar with general university hiring practices and procedures and the collectively negotiated agreement between the University and the Rutgers Council of AAUP Chapters, the faculty union (AAUP).

3. While I was the Dean of FBS, the Associate Dean of FBS performed such duties and responsibilities as I assigned to him from time to time. Although I generally delegated responsibility for recruitment and selection of faculty to the Associate Dean of FBS, I retained the appointment authority. Following this procedure, in 1984 I delegated to then Associate Dean of FBS, Dr. Peter Weissenberg, the responsibility for the recruitment and search process that ultimately led to the hiring of Dr. Jay Bright.

4. The first step in the hiring process in the FBS is a determination by the faculty and administrative officers

of FBS is a determination by the faculty and administrative officers of FBS that a vacancy needs to be filled (or that a new position should be established). No hiring can actually take place unless a "line" is available to the FBS —*i.e.*, a commitment of a certain amount of funds for the position. The faculty and administrative officers of FBS also determine the fields of expertise, the types and levels of experience and other credentials to seek in candidates for the position. These procedures were followed in connection with filling the position ultimately offered to Dr. Bright.

5. Candidates for a faculty position at FBS are ordinarily interviewed by the FBS Appointments and Promotions Committee (the "A & P Committee"). Pursuant to University regulations, each faculty or college (academic unit) has its own A & P Committee. The duties of the A & P Committee are to advise the dean of the academic unit as to appointments, reappointments, promotions, retirement and personnel procedures generally.

6. By memorandum of May 18, 1984, the Associate Dean of FBS (then Dr. Peter Weissenberg) requested the appointment of Jay Bright at the rank of assistant professor. (A true and accurate copy of Dr. Weissenberg's May 18, 1984 memorandum is attached as Exhibit A.) As stated in Dr. Weissenberg's memorandum, the line available to FBS for this appointment was initially funded up to $27,084. Dr. Weissenberg sought additional funding in the amount of $3,093 to bring the salary to $30,177. This figure corresponded to a range and step on the salary guide then in effect and negotiated between the University and the "AAUP" (a true and accurate copy of which is attached hereto as Exhibit B). (The AAUP is the majority representative of Rutgers University full-time faculty members for purposes of collective negotiations.)

7. On May 25, 1984, I wrote to Dr. Bright offering him a faculty position in the FBS. (Attached as Exhibit C is a true and accurate copy of my May 25, 1984 letter to Dr. Bright.) With that letter, I sent Dr. Bright a standard faculty contract calling for a starting salary of $30,140 for the academic year and appointment at the rank of assistant professor. The reason for the salary of $30,140 instead of the $30,177 proposed by Dr. Weissenberg was that a new collectively negotiated salary guide was going into effect on July 1, 1984. (A true and accurate copy of the salary guide effective as of July 1, 1984 is attached hereto as Exhibit D.) The closest dollar amount on the new guide that corresponded to the proposed salary of $30,177 was $30,140.

8. Under cover of a letter dated June 13, 1984, Dr. Bright returned the signed contract to me. (True and accurate copies of his June 13, 1984 cover letter and the signed contract are attached hereto as Exhibit E and Exhibit F, respectively.)

9. The contract assigns Dr. Bright the rank of Assistant Professor. In assigning academic rank upon initial appointment, the following factors are weighed and considered by the University:

—degree(s) received or to be received

—institutions attended

—nature and extent of scholarly publications and research activity

—quality and quantity of scholarly publication and other evidence of research activity

—nature and extent of involvement in professional and academic organizations

—experience and professional promise

–teaching experience

–visibility and impact within the field

The appraisal of qualifications is a process of making professional academic judgments about the quality of one's credentials, scholarship and research activity; about the merit of one's achievements and potential; and about the promise for future professional growth and contributions to the field. These judgments are made by experienced and tenured faculty members and academic administrators.

10. Of the six assistant professors in FBS in July, 1984 (the time of plaintiff's hiring), Dr. Bright was the highest paid. The salaries and highest academic degree of the Assistant Professors in FBS as of July 1, 1984 were as follows:

$25,217 – J.D.
$25,515 – LL.M.
$28,255 – Ph.D.
$28,345 – M.B.A.
$28,794 – M.B.A.
$30,140 – Ph.D. (Plaintiff).

In this regard, it should also be recognized that in the FBS, a Ph.D. is not the terminal degree for various specialties. Depending on one's field, an M.B.A., a J.D., LL.M. or a Certified Public Accountant license may be appropriate.

/s/ Walter K. Gordon
WALTER K. GORDON

Sworn and subscribed to
before me this 16th day
of February, 1990.

/s/ Marc E. Alterman
Marc E. Alterman
An Attorney at Law
of the State of New Jersey

ATTACHMENTS TO AFFIDAVIT
OF WALTER GORDON
INTENTIONALLY OMITTED,
EXCEPT FOR EXHIBIT E

Dr. Walter K. Gordon
Dean
Office of the Provost
Rutgers—the State Univ.
Camden, NJ 08102

6-13-1984

Dear Dean Gordon,

Thank you for your letter of May 25, 1984 and for the accompanying employment contract.

I have signed the contract, accepting my appointment.

The signed contract and other forms for the personnel files are enclosed herewith.

Thanking you.

Sincerely yours,

/s/ Jay B. Bright

APPENDIX N

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Civil Action No. 88-4115 (SSB)

JAY B. BRIGHT, Ph.D.,

Plaintiff,

vs.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY, et al,

Defendants

Wednesday – July 12, 1989

Oral sworn deposition of Dr. Jay B. Bright, Ph.D., taken in the law offices of ARCHER & GREINER, ESQUIRES, One Centennial Square, Haddonfield, New Jersey, before Teresa Ann Iannaco, Certified Shorthand Reporter and Notary Public of the State of New Jersey, on the above date, commencing at 10:17 a.m., there being present:

APPEARANCES:

VOGEL, CHAIT, SCHWARTZ & COLLINS, ESQUIRES
BY: MARC E. ALTERMAN, ESQUIRE
Attorneys for Rutgers, The State University

REINHARDT & SCHACHTER, ESQUIRES
BY: DENISE REINHARDT, ESQUIRE
Attorneys for Rutgers' Chapter of AAUP

ALSO PRESENT:

BARBARA A. McMANUS, Paralegal

* * *

[62] A. I was born in 1932, sir. December 29, 1932.

Q. And where were you born, sir?

[63] A. Objection, again. Irrelevant.

Q Sir, you have based your complaint in some manner on your allegation that you're being discriminated against because of foreign birth. I can't think of anything more relevant than an answer to the question of where you were born, so please answer the question.

A. So as university's attorney, naturally, you wish to make this clear then. Yes, sir, I was born in the country of India.

Q. Where, specifically?

A. I was born in the province which is called Gujarat, G-U-J-A-R-A-T, Gujarat.

* * *

[64] A. My schooling was begun in the city of Bombay, sir.

Q. And what, what type of school did you attend initially in Bombay? Was it a public school?

A. All this is, of course, under objection, but I am responding anyhow. You understand that.

Q. Your objection is noted, sir.

A. Yes. Well, I suppose there is no harm in talking history, I suppose. I began schooling in the city of Bombay.

Do you want to know the name of the school?

Q. If you know. What I'd like to do, sir, so you understand what my purpose is, is develop for my own information, on behalf of the university, an understanding of your educational background and the [65] the history from, as I indicated, earliest days --

A. I see.

Q. – and I'm going to move forward. And, you know, I realize that you have advanced degrees. I will work up to those. But, in order to fully appreciate your background --

A. Yes, yes.

Q. --which reflects on your qualifications to be a professor at Rutgers or any other university, I think it's important that I appreciate the entire educational background.

A. Sure.

Q. It's, as I say, it's nothing out of the ordinary. I just need some framework.

A. Let's go ahead and ask me a somewhat narrow question now, please.

Q. Okay. I think I, I think I asked you -- you were telling me you began your schooling in Bombay.

A. City of Bombay.

Q. The city of Bombay.

A. It's, it's like New York, New York, you see? Because, in those days, not now, --

Q. Um-hum.

A. -- Bombay also was a state. Now they've changed the names.

[66] Q. I see. I, most candidly, –

A. That's the reason I keep saying city of Bombay.

Q. I understand. I appreciate that clarification. I must say that my knowledge of Indian geography would not win me any prizes.

A. Mine wouldn't either. I've been here for 30 or 31 years, so I don't know much about India now. I've forgotten most of it.

Q. I'm glad at least we would all enjoy a smile at least for a change. In any event, in the city of Bombay you

began your schooling.

I don't know what the ordinary course of education in the city of Bombay is. Were there public schools that you attended?

A. Well, I attended -- you see, what we call public schools here are not called public schools there. Here, by public schools we mean schools that are funded by municipalities and so forth, you see? In the British Commonwealth, it's the exact opposite meaning. Public schools there mean privately funded, private schools, so in that sense, I attended private schools.

Q. Which would the state-sponsored schools?

A. No, no, private schools.

Q. Oh, private school --

[67] A. Private schools.

Q. What we would consider private schools in the states?

A. In this country, yes.

Q. Okay. I see. And how long was your education at these private schools?

A. All the way up to high school and then into college.

Q. Okay. What year did you graduate from high school, sir?

A. 19 and, let me think. 1950, 1-9-5-0. All this is under objection, of course, but, you know, since you are curious. Not many people ask me about my childhood, so, go ahead.

* * *

[76] Q. And you came to America, when, sir?

[77] A. 1958.

Q. January --

A. Now, all this is under objection, is irrelevant.

Q. January or December or somewhere in between in 1958?

A. June, sir.

Q. Okay. And what did you do when you came to the states?

A. Irrelevant, sir.

Q. Please answer the question.

A. Sir, this is clearly beyond the scope of the issues.

Q. Sir, your experience bears directly on the issues in this case. It's critical for me to know what your background is. Among your allegations are that the university paid you an inadequate salary and discriminated against you based, I believe, on your foreign birth and your color. In order to determine the reasonablness of the university's action, it's essential that I be aware of your entire background. That's what I'm asking you for.

You came to the states in you June, 1958. I'd like to know, first of all, where you moved to in the states?

[78] A. Sir, may I correct you on one thing, sir?

Q. You can make a statement, sir.

A. What complaints I have against the university are in the complaint itself. What you represented them -- your representations of the complaint vary from the complaint, sir.

Q. The complaint will speak for itself, Dr. Bright, and we'll get to that, I have no doubt, at some point. Nevertheless, I'd like you to answer my question. Where did you come to when you came to the United States in 1958?

A. Under objection, I can answer it.

Q. Your objection's noted.

A. I went to a college, a private college in San Francisco.

Q. What college was that?

A. It is called, was called the Heald, H-E-A-L-D, College of Engineering.

Q. And what did you study at that college?

A. Engineering.

Q. Any specialty in engineering or --

A. I think I had planned to major in electrical engineering.

Q. And how long did you study at Heald College?

A. About a year, one year.

[79] Q. Would that be the academic year 1958-'59?

A. I believe so, yes.

Q. Did you receive a degree upon completion of your studies at Heald College?

A. No, sir, I did not.

Q. And you left there then in June of 1959; would that be correct?

A. That is correct.

* * *

[103] A. Let me think now. I think I then wanted to go back to school and apply to a number of universities and one of the universities who not only accepted my application but also promised some assistance was the University of Houston, in Texas.

Q. What, what program did you apply to?

A. In the college of business. They had a master's degree program, economics and management.

Q. Previously, Dr. Bright, you told me that your studies had been in the field of science.

A. Sciences, that's right.

Q. Okay. Had you ever taken any business courses prior to your application to the University of Houston in approximately 1960?

A. Oh, no. As a matter of fact, before 1960, I [104] had never taken any courses in business anywhere. But, my working in the industry told me that, to be in a management position, it was essential to get schooling in busi-

ness administration or business management. This is, this is the reason I decided to go into management schooling.

Q. And you applied and were accepted to the University of Houston then?

A. That is correct.

Q. And when did you matriculate with the University of Houston?

A. I got my master's degree in 1962.

Q. I didn't ask you when you received your degree, sir, I asked you when you matriculated there. When did you begin attending classes there at the university of Houston?

A. Oh, 1960 -- oh, wait a minute. '61, I think. At least '61, I believe. Probably so. Yeah, 1961.

Q. So you were out of work then for some time between being laid off at Raytheon and matriculating at the University of Houston?

A. That is – that may be. I don't recall, but that's possible.

Q. Well, did you have a family at that time, sir?

A. Oh, no.

[105] Q. No?

A. No, no, no, no.

Q. Were you collecting unemployment compensation or anything of that nature during that period of time?

A. I don't believe so, no.

Q. You began attending the University of Houston in early 1961?

A. Yeah.

Q. And you were taking business courses?

A. Courses in economics, in agricultural economics, in farm management, behavioral sciences, including sociology I think and so forth. They have a well-rounded curriculum. Most universities do, you see, but my master's thesis was in management.

Q. We'll get to that in a minute. Did you take a full load of courses?

A. Oh, absolutely.

Q. Were you working at all during that period apart from your studies? Did you have a, other part-time employment?

A. Yeah, I had departmental -- you see this was promised by them -- departmental part-time employment.

Q. When you say departmental part-time employment, what do you mean? What do you mean?

A. Doing work in the department, clerical work, [106] you know, statistical, helping the professors with their statistics' research. Clerical work, mostly.

Q. Did it entail any teaching?

A. Oh, no, it was more of a, what is known as research assistant, not teaching assistant.

Q. And you were paid for this work?

A. Yes, I was.

Q. And that was more or less I take it in the form of a stipend?

A. Stipend is the right word.

Q. I see. Was that the extent of the financial aid which you received from the University of Houston?

A. Yes, that's right.

Q. Did you pay tuition to the --

A. Full tuition.

Q. Okay. Just so I understand, then, you were a full paying student?

A. Yes.

Q. But you received --

A. Somewhat work.

(Interruption by court reporter.)

BY MR. ALTERMAN:

Q. Dr. Bright, the court reporter has I guess admonished both of us to try to talk one at a time. Please let

me try to complete my questions. Again, [107] I'm just trying to understand what you're telling me having not experienced it myself. I have to ask you specifically what went on in order to understand it. What I was saying, I think, was that my understanding is that you paid tuition, full, the tuition as an ordinary student but you did receive some aid in a sense that you had a job and received the stipend for performing some clerical work as a research assistant?

A. I think what you described is, conveys the meaning, yes.

Q. Okay. Good. Thank you. And you did that beginning in early 1961. I take it that would be with, the equivalent of the spring semester in 1961?

A. Possibly, quite possibly.

Q. Did you attend school that summer?

A. Yes, I did.

Q. So you were continuing full time?

A. Yes, all the way up to getting my master's degree.

Q. Okay. And when did you receive your master's degree?

A. Let me --

MR. ALTERMAN: Dr. Bright, feel free to change your audio tape again.

MR. ALTERMAN: We're back recording, Dr. [108] Bright?

THE WITNESS: Yes, sir.

MR. ALTERMAN: Okay. Good.

BY MR. ALTERMAN:

Q. I do not remember whether there was a question pending. If there was, I'll withdraw it. And I think you were telling me you received your master's degree in 1962 from the University of Houston?

A. August of 1962.

Q. Okay. You told me a little bit, sir, that you took courses in economics, agricultural economics, foreign management and behavioral sciences. Were there any other particular areas that you studied in prior to receiving your master's in 1962?

A. Well, let me think now. You know, it's going back so many years. There was a course in marketing, as I recall. There was a course in statistics. My thesis was in management of agricultural cooperatives. I may have taken a course in labor economics; that's right, I did, a course in economic development. It was a fairly well-rounded curriculum.

* * *

[118] Q. Okay. You went down to Houston in '65 or early '66 to begin further studies?

A. That is correct.

Q. Did you have a scholarship there?

A. No, not at that time, no, sir.

Q. Okay. You were then a full tuition student again at the University of Houston?

A. I had saved up money just for that purpose, you [119] see.

* * *

[132] Q. Okay. And you had then completed the requirements for the Ph.D. at the University of Houston?

A. When you finish the thesis and when you defend it.

Q. The dissertation?

A. The dissertation. And when the advisers, there are four of them, when they sign it, then you have a degree in hand. The actual confirmment takes place at [133] the time of commencement.

Q. And the commencement was in August 1969?

A. That's right, yes.

* * *

A. I had a job offer from the university system of Georgia in Columbus, Georgia, so in September of '69, I accepted, went, joined the college in Columbus, Georgia.

Q. Was that a minority college?

A. Oh, no, it was a white college.

Q. It was a part of the University of Georgia?

A. Yes, university system of Georgia.

Q. I see. And what was your rank?

A. Assistant professor in the college of business. The -- it was a division of business, not a college of business.

Q. And what was your salary when you began there?

A. You realize all this is under objection anyhow.

Q. That's fine.

A. As I recall, it was 13 thousand dollars for nine months. In those days, you could buy a house for 14 thousand, by the way, in those days, you know.

* * *

[135] Q. Were you doing any independent research during that period of time?

A. Well, I was working on a revision of my dissertation to publish it as a book.

Q. I'm sorry.

A. A revision.

Q. A revision?

A. Yes. I did the -- by the way, it was published as a book.

Q. We'll get to that in a minute. Your primary independent work was to work on a revision of your dissertation during that period of time?

[136] A. Well, not during that period but it was one of the things I did.

Q. Okay. What other independent work did you undertake while you were teach --

A. Well, --

Q. -- while you were teaching at the University of Georgia?

A. I was, in those days, thinking back, I was interested in economic theory, you know, especially microeconomic theory, and I researched in that. Columbus College had a very small library, so we were somewhat limited in that.

Q. Did you prepare any papers during that period of time while you were an assistant professor --

A. Yes, sir.

Q. -- at the University of Georgia?

A. Yes, I did.

Q. How many papers?

A. I think I presented maybe four, maybe four papers.

Q. Were those papers published then?

A. Well, if they were published, it would be in the journals of the associations.

* * *

[150] Q. And you've never bothered to find out?

A. No, I haven't, really.

Q. Apart from that publication, did you publish any other material while you were an assistant professor at the university system of Georgia at Columbus?

A. I can't think of any right now. There was, I started work on a second book on Environmental Economics.

Q. I'm sorry, what economics?

A. Environmental.

Q. Environmental?

A. Economics.

Q. That was other independent research you did while --

A. Yes.

Q. – at Columbus College?

A. Yes, that's right. But it was not finished, the book was never finished.

Q. Did you conduct any other academic research during that period of time?

A. Apart from what I said, I can't think of any other.

[151] Q. Were you a member of any professional associations during that period of time?

A. Well, yes, the American Economic Association, the Southwestern Economic Association, the Academy Of Management, the American Institute For Decision Sciences, Atlantic Economic Association. These are some that I can think of.

Q. Did you hold any offices in any of the professional associations of which you were a member?

A. Well, if by office you mean chairing a session or program coordination, I did that once for the Southwestern Economic Association.

Q. Tell me what you did.

A. Essentially, it had to do with screening papers for presentation and recommending them to the session, or, rather, the program chairman.

Q. Are there any other activity of that sort for any of the other professional organizations?

A. Oh, yes, indeed, indeed. I was a founding member of the American Institute For Decision Science.

Q. And what is the American Institute For Decision Sciences?

A. Okay. Now it is called the Decision Sciences Institute. You see, they changed it because the [152] letters A-I-D-S now have a different connotation, so --

Q. Fair enough.

A. -- so they, as soon as the New England Medical Journal popularized A.I.D.S., these people got together and changed the name to -- D.S.I., Decision Sciences Institute. What they do, they promote a quantity to management techniques in universities, you see.

Q. How many members does that association have now?

A. I would say not less than two or three thousand. Maybe more.

Q. How many did it have -- strike that?

A. When?

Q. How many, quote, "founding members", end quote, were there?

A. The founding members would be a hundred or so.

Q. Did you carry out any administrative function with respect to that organization?

A. Well, during the initial stages, promotional material, explaining the institute, you know, helping with mailing out things, mailing out literature. This was, I think, in 1970, '71, something like that.

Q. At Columbus College, with respect to the [153] college, did you perform any administrative functions in your department?

A. No, I never did.

Q. I don't think I asked you, Dr. Bright, who was the dean at the school that you were at at Columbus College?

A. Columbus College?

Q. Yes.

A. Well, we did not have a dean. It was a division, so we had a division chairman.

Q. Okay. Who was the division chairman?

A. A gentleman by the name of Voinich, V-O-I-N-I-C-H.

Q. Do you know Professor Voinich's whereabouts today?

A. I'm quite sure he's either retired or otherwise inactive because even in those days he was a very old man.

Q. I see. How many faculty members were there in your division?

A. Okay. I have to think back now.

Q. Approximately.

A. Let's see. I'd say about 14, 15.

Q. Were any of those, other than yourself, minority members?

[154] A. I was the only one. I was the only minority.

Q. Were there any women in that group?

A. Yes, there was a lady. She used to teach shorthand and typing, of all things, to evening students, you know. She was a leftover from very old days when a doctorate was not necessary. She was the only one who didn't have a doctorate, I think, and she was left over. She was, I think, involved in teaching shorthand and typing to ladies in the evening who were working in the industry. She wasn't on the faculty but they kept her on because she was, she had tenure and so forth, so . . .

Q. Was – strike that. At Columbus College, was it primarily an evening school?

A. Oh, no, no, no, no, no. They had very few evening classes, as a matter of fact. It was a regular day college.

THE WITNESS: Please note that Mr. Alterman is conferring with his associate.

BY MR. ALTERMAN:

Q. Did you have an office at Columbus College, Dr. Bright?

A. Yes.

Q. And why don't you describe to me the office facilities that you enjoyed.

[155] A. It was comparable with offices provided to others. Same size, same location. There was no discrimination involved.

Q. With respect to the others in the department, you said there were approximately 14. How many of them were at your rank and how many were above or below you, roughly?

A. Well, I think there were two associate professors, one full and the rest were assistant professors or below. It was a young department, so to speak.

Q. Let's talk about your salary history there, Dr. Bright. I think you told me before that your initial salary there was $13 thousand, I think, for a nine-month period, although --

A. Nine month, yes.

Q. Okay. Did it increase over time?

A. It increased every year.

Q. Could you tell me, if you recall, the increments for each year leading up to what your concluding salary was there?

A. I do recall that they were what the State of Georgia approved for state colleges. It was never less.

Q. That's not what I asked you, Dr. Bright. I [156] asked you --

A. Percentage?

Q. -- if you could give me either percentage, or, more useful to me would be if you remember the salary. Now, you said you started at 13,000 for a nine-month period. How much did you make in the next nine-month period?

A. Oh, that, I don't recall. But at the end, it was toward 15 thousand.

Q. So between 1969 and 1975, your salary increased from 13,000 to $15 thousand per nine-month period?

A. It was '69 to '74, as I recall. You see, it makes four years -- five years that way. '69-'70, '70-'71, '71-'72, so it will go up to '74.

Q. Your last academic year at Columbus College then was 1973-'74?

A. Wait a minute. It may have been '74-'75.

Q. So you may have been there for six years then?

A. No, five years. If -- I had -- I was counting. I think

it was five years. What does it come to? I have to, I have to put it down on paper.

Q. If you began, if you began in the fall of 1969 --

A. Right.

Q. -- and I think you testified that that was the [157] case, --

A. Yes.

Q. -- five academic years would bring you through to June of 1974.

A. '74?

Q. That's correct.

A. Yeah, that's what it is.

Q. That would be five academic years.

A. That's right. That's what I told you.

Q. Okay. So from 1969 'til June of 1974, your salary increased from 13,000 to --

A. About 15 thousand, which is what the state approved. You see, in those days, as I -- we talked earlier, you could buy a house for 13, $14 thousand, and Lester Maddox, M-A-D-D-O-X of the X Hall of Fame, you recall? If you don't -- he thought that college teachers did not deserve any raises.

Q. What were the circumstances of your leaving Columbus College?

A. Okay. They had failed to promote me while promoting those who got their Ph.D. after joining Columbus College. Therefore, I had filed a complaint against them with the EEOC, Equal Employment Opportunity Commission, and, therefore, they did not renew my contract.

[158] Q. Let's go back. Were you up for promotion at any time during your, during the period you were at Columbus College?

A. Yes, I was up for promotion in my second year. I went to the dean. I told the dean I have this letter from

Louisiana Technical University offering me an associate professorship. I had that in hand. I had said either let me go or give me a promotion and raise. He said, Jay, we'll give you a promotion and raise, so I did not go to Louisiana. These people never gave me a raise or a promotion. It was then that I went to the EEOC.

Q. What year did you go to the EEOC?

A. Well, I, I think it would be probably in '73, as I recall. I'm not sure. '73, more than likely.

Q. And did you file a formal charge with the EEOC?

A. Yes. I had to go to Atlanta, you see, to do that, and I did that.

Q. And, again, what was the substance of your allegations?

A. Failure to give me a promotion.

Q. What type of discrimination did you allege, if any?

A. Based on foreign birth, race, color.

Q. Was there an investigation conducted by the [159] EEOC, to your knowledge?

A. If there was, I do not know of it.

Q. What was the disposition of that charge?

A. The disposition was that I withdrew my complaint in 19 and '76.

Q. Why did you withdraw the complaint?

A. I withdrew it because, number one, I had left Georgia and I was unable to find a job without a recommendation from Columbus College, so the same dean who did not let me go to Louisiana, who did not promote me, he told me on the phone that he will definitely put in a good recommendation if I withdraw the complaint. So, again, I took him at his word, and, again, he did not put in a good recommendation, so I wound up withdrawing the complaint and did not find -- did not get the job that I had applied for.

Q. Was that Professor Voinich that you're referring to?

A. No, I was, I was thinking of Anderson, John Anderson. Voinich I think was not the dean at that time. So, anyhow, I knew that John Anderson was not to be trusted. I knew that, but with the remote hope that he will keep his word this time, I took a chance, and I was mistaken.

Q. Let's go back to Columbus College. 1974. You, [160] your contract was not renewed for the '74-'75 academic year?

A. I think for the '75-'76 it was not renewed, you know, for the following year. '74-'75 would be the last year, I think. So, for the following year it was not renewed.

Q. Well, there's a little bit of a discrepancy, Dr. Bright, because you said you were there for five years, which you --

A. As I recall. Either four or five. I'm not sure. It might be five I'm inclined to think.

Q. If you said you were there until the end of the academic year of 1975 --

A. '74.

Q. Right.

A. End of the year, academic year '74.

Q. Right. So your contract was not renewed then for the '74-'75 year? Let me ask you this? The nine-month period covered by these contracts was ordinarily September to June?

A. September to June, yes. So in June of '75, I was out. That's, that's what it amounts to.

Q. Dr. Bright, I'm having difficulty because -- I'm not trying to be -- strike that. I'm having difficulty because you said you began at Columbus [161] College

in the fall of '69 with a contract for the academic year '69-'70. You said you were there for five years, that you taught there for five years.

A. That's my recollection.

Q. Right. Which would bring us through to the conclusion of the academic year 1973-1974.

A. No, it would not, sir. If you count again.

Q. All right. I will count it. I will count it and you tell me whether I'm right or wrong. '69-'70 is one; '70-'71 is two; '71-'72 is three; '72-'73 is four; and '73-'74 is five. So five years would conclude in June, 1974. I ask you again, were you -- did you teach there -- try to do it this way: Did you teach there in 1974-'75 academic year?

A. Well, I was there for five years, as I recall, and if the five years concluded in '74, then maybe not.

* * *

[163] Q. Did you send out resumes?

A. Many of them.

Q. Hundreds?

A. Possibly.

Q. One hundred?

A. More like three or four hundred.

Q. Did you receive any interviews from anyone?

A. Well, to my amazement, I did not get a single [164] interview until August of '74 from a college which was about sixty or seventy miles from Columbus College; Montgomery, Alabama.

APPENDIX O

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Civil Action No. 88-4115 (SSB)

JAY B. BRIGHT, Ph.D.,

Plaintiff,

vs.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY, et al.,

Defendants.

Monday – July 24, 1989

Oral sworn deposition of Dr. Jay B. Bright, Ph.D., taken in the law offices of ARCHER & GREINER, ESQUIRES, One Centennial Square, Haddonfield, New Jersey, before Teresa Ann Iannaco, Certified Shorthand Reporter and Notary Public of the State of New Jersey, on the above date, commencing at 10:24 a.m., there being present:

APPEARANCES:

VOGEL, CHAIT, SCHWARTZ & COLLINS, ESQUIRES
BY: MARC E. ALTERMAN, ESQUIRE
Attorneys for Rutgers, The State University

JOHN B. WOLF, ESQUIRE

* * *

[23] Q. When did you leave employment there then?

A. Well, I was fired from there. My contract was not renewed I think beginning the end of the summer of '75, as I recall, going back 15 years.

* * *

[25] Q. Incidentally, did you ever file any charges of discrimination against the Alabama State University?

A. Yes, I did.

Q. Whom did you file those charges with?

A. With the EEOC, the Equal Employment Opportunity Commission.

Q. Okay. And do you know approximately when those charges were filed?

A. The charges were filed sometime in the spring of 1975, as I recall.

Q. Was it before or after you were advised of your nonrenewal?

A. I'm not sure.

Q. Was the – strike that. What was the substance of your charges against Alabama State University?

[26] A. I'm not sure, but I imagine it would be – come to think of it, it may have been office assignment and salary discrepancy because while I was there, I think they hired non-Ph.D.s, who were white, at a salary higher than mine, and as regards office assignment, I do know that I was the only associate professor with no individual office, and I think there were six people in the room where I had my desk. That was supposed to be my office assignment. So these two certainly would be issues. I don't recall the details.

Q. Did you claim that Alabama State University discriminated against you at the time they hired you?

A. I may have claimed it, I'm not sure.

Q. Did you claim that they – strike that. Did you claim that you were terminated as a result of discrimination by the Alabama State University or others connected with that institution?

A. I don't know, sir. I'm not sure.

Q. Well, do you think now that you were discriminated against when you were discharged by the Alabama State University?

A. I, I believe so, yes.

Q. Okay. And what was the basis of that discrimination?

[27] A. Office assignment.

Q. Let me, let me – I understand your office assignment and salary. What I'm trying to get at: You claim you were discriminated against on account of race?

A. Race and country of birth, foreign birth, you know, and being a minority person in the sense that I was not U.S. born.

Please do not communicate with Mr. Wolf unless you want to record the conversation.

Q. Dr. Bright, Mr. Wolf is here as my client today, representing the university. I can communicate with him on or off the record to my heart's delight, and I intend to exercise that privilege, and, again, sir, if you wish to make a todo out of this, I'm happy to call the magistrate right now, but I have every right to communicate with him in any way I so desire and I will continue to do that.

A. Well, may I request that you record all communication, in full, with the court reporter, please.

Q. You can request that, sir. I'm telling you right now, I may or may not honor your request.

A. I would request that you do so, please.

Q. I understand your request. What was – [28] strike that. Do you know whether the EEOC conducted

an investigation of your charges against Alabama State University?

A. I don't know.

Q. Were you ever advised of the disposition by the EEOC of –

A. Let me change the tape here one moment.

Could you please repeat the question, sir?

Q. Sure. Well, I don't recall exactly what the question is, I think, but I'll ask you this one: Do you – are you aware of whether or not there was a disposition by the EEOC of your charges against the Alabama State University?

A. Yeah. That was the question you just asked before, –

Q. Okay.

A. – you see. I wasn't sure, but, thinking back, a few days ago I was thinking about this matter, and it seems to me that about a year, about a year after I left Montgomery, or perhaps even after that, I received disposition that the, the EEOC had found for the university.

Q. Did you ever receive a copy of a written decision or any other notification from the EEOC to that effect?

[29] A. Yes, I – it was – I just – it just came to me a few days ago, thinking about this matter, that it did.

Q. When you say it came to you, you don't mean the writing came to you –

A. No, no.

Q. You recalled it?

A. That's right. I remembered a few days ago that, yes, I did receive a notification.

Q. And that notification would have come sometime through 1976 you think?

A. In the latter part of '76, as I recall it.

* * *

[33] Q. How long were you unemployed in the states before you obtained employment in India?

A. I would say about a year and a half, that's my guess, maybe two years.

* * *

[35] Q. Approximately how many private corporations did you apply to in India?

A. Let me think. As I recall, only one, because I didn't know of – I have – I had no idea where to apply. The reason I applied to this company, it's called Swadeshi, S-W-A-D-E-S-H-I, Cotton, C-O-T-T-O-N, Textiles Mills, M-I-L-L-S, is that I knew the owners and the managers of this very large corporation.

Q. Where in India were they located?

A. They are located in a city called Kanpur, K-A-N-P-U-R.

Q. Apart from applying to all of the universities and to Swadeshi Cotton –

A. Textiles Mills.

Q. – Texttiles Mills, did you apply for any other employment in India at this time?

A. Not as I recall.

Q. When did you receive a job offer from Swadeshi?

A. I don't recall, sir. Sometime in 1976 would be a fair guess.

* * *

[42] Q. Do you know what month you left employment with Swadeshi?

A. I would think sometime in '77. I don't recall the month.

* * *

[43] Q. When you left Swadeshi in 1977 –

A. As I recall it.

Q. – what did you do then?

A. Well, I returned to the United States and went to California and obtained a part-time teaching position with the California State University at Los Angeles. It's called California State University at Los Angeles. This job I obtained as a result of floating my resume for full-time jobs all over that region, the west.

* * *

[48] Q. Did you leave there for some full-time employment?

A. No.

Q. You left there to be unemployed again?

A. Well, my wife and children were in India, still, –

Q. I see.

A. – and upon their insistance, I returned to India.

[49] Q. And when was that?

A. I think in the latter part of '77 or early '88 – '78, I mean, early '78.

* * *

[59] Q. Okay. Then you went back to India for a few months and then you came back to the United States?

A. Yeah. We went to Boston.

Q. Okay. Why did you pick Boston?

A. Well, because we thought – I thought that Senator Ted Kennedy would be a man who would be fair enough to correct the injustices to which I was being subjected.

Q. Had you ever communicated with Senator Kennedy before you moved to Boston?

A. I may have. I may have written to him.

[60] Q. Did you speak to anybody on his staff?

A. Yes, I did.

Q. Who did you speak to?

A. Well, this was the reason we went to Boston. I went to his office in Boston and spoke to, I don't recall the name, but I gave him, through that person, a petition regarding this matter. And that I told Senator Kennedy that it must be Columbus College who had maligned me sufficiently to the U.S. government so that I was unable to find employment anywhere. I think he did write back that he will do what he can.

Q. Did you hear anything further from Senator kennedy or anyone on his staff regarding the matter?

A. No, never did.

* * *

[61] Q. Did you apply for employment at that time?

A. Oh, yes.

Q. Okay. With whom did you apply to for employment?

A. All the colleges and universities in that area.

Q. By "that area", could you be more specific?

A. Well, the Massachusetts and vicinity area.

Q. Would it be fair to say New England, generally?

A. Generally, yes, sir.

Q. Okay. About how many places did you seek employment?

A. I sent out I think about two hundred, three hundred resumes.

Q. Were these all to colleges and universities?

A. Yes, they were. Yeah, including – I also sent out resumes to economic research operations.

* * *

[71] Q. What position did they offer you?

A. An associate professor of management.

Q. And what was your salary?

A. I recall it was – let me think now. I think it was 16, 16 thousand for nine months.

* * *

[73] Q. Okay. And how long were you associated with American International College?

A. Two years.

* * *

[78] Q. You began teaching there I think you said in the fall of '78; correct?

A. Right.

Q. All right. And you said you were there for two [79] years?

A. Oh, wait a minute. I'm sorry.

Q. So you would have left –

A. It would be, it would be August of 1980, 1980. I stand corrected. 1980.

Q. That's what I thought and that's why I pursued that.

A. Yeah, 1980 is correct, yes.

Q. Okay. Was your contract not renewed?

A. That is true.

* * *

[80] Q. And you said you started applying for positions again in approximately the spring of 1980?

A. Yeah.

Q. Where did you apply?

A. I applied, I think, you know, in the vicinity of Massachusetts.

Q. Same general area you had two years before?

A. Well, yeah, northeast I would say, generally.

Q. Okay. And did you also apply to private industry at that point as well?

A. Oh, no, no. My first love is academia, you see.

Q. I understand. So you simply applied again to colleges and universities?

A. That's right.

Q. Okay. And did you receive any positive [81] responses from those applications?

A. Yes, I got a call from a university in Erie, Pennsylvania. That's E-R-I-E.

Q. What university was that?

A. It's called Gannon, G-A-N-N-O-N, Gannon University.

Q. You received a telephone call from them?

A. Yeah, I got a call from the dean.

Q. When did you get a call from the dean?

A. I imagine for sometime in June, was it, or May or June of 1980.

Q. Did that telephone call result in an interview?

A. Yes, it did.

Q. And you traveled to Erie, Pennsylvania, for this interview?

A. Um-hum, yes.

Q. When did you go to Erie for this purpose?

A. Probably in June or July.

Q. Of 1980?

A. Yes.

Q. Were you teaching during the summer of 1980?

A. I don't recall, but probably not.

Q. When you went out to Gannon for an interview, whom did you meet with?

A. I met with the dean of the college of business.

[82] Q. What was his name?

A. Under objection, I can divulge names.

Q. Note your objection. What's his name?

A. Dr. Volpe. V-O-L-P-E.

Q. To your knowledge, is Dr. Volpe still associated with Gannon University?

A. I don't know any different.

Q. Did you meet with anybody else at Gannon University at that time?

A. Yes, the whole faculty of business.

Q. How many people was that?

A. At that time I think – I should say, oh, about 12

people. They all interviewed me. You know, they actually used a fairly large conference room and we all talked and they had me teach a lecture in statistics. They told me to assume they were students, which I did.

Q. Okay. Did your – strike that. Did your interview at Gannon University then last an entire day?

A. Oh, yes. Well, two days, as a matter of fact.

Q. Two days. That was going to be my next question. The interview which was a process took two days?

A. Two.

[83] Q. You have to keep your responses audible, Dr. Bright, –

A. Two, two days.

Q. – so the court reporter –

And after the two days of interviews, did they offer you a position?

A. Yes, they did.

Q. Did they do that at the end of the second day?

A. No, no. Well, verbally, yes.

Q. What do you mean when you say verbally?

A. Yeah, the dean told me that I would be hired as an associate professor.

Q. At what salary?

A. He said the salary he will decide and let me know.

Q. And how did you leave it with him that day?

A. Well, I told him what I was making at American International College and I told him it would have to be more, and he said it would be, it would be more.

Q. At that point, how much were you making at American International?

A. I should think in the neighborhood of 17 thousand.

Q. 17?

A. Yeah.

[84] Q. Okay. And did he then – "he" being, I guess this was Dean Volpe?

A. Yeah.

Q. He got back in touch with you at some point?

A. Yeah. He called me.

Q. How much later?

A. I think it was two days later.

Q. And what did he tell you?

A. He told me that he had taken care of all the formalities and that the only question was of salary and what was the least that I would take.

Q. And what did you tell him?

A. I told him that I would take the most that he could give me.

Q. And –

A. And he said that he could offer no more than 19 thousand, well, for academic year, and I said, well, okay, I'll take it.

Q. And then you were to begin teaching at Gannon in the fall?

A. Fall of 1980, that's right.

* * *

[92] Q. Did you seek a promotion from Gannon University?

A. Well, you see, Dr. Volpe, himself, told me that they will make me a professor, full professor and chairman of the department.

Q. And chairman of the department?

A. Yes.

* * *

[93] Q. And you apparently did not receive the rank of full professor or an appointment as chairman of the department.

A. No, I did not.

Q. Okay. Did Dr. Volpe tell you why that didn't happen?

A. Yes, he did.

Q. What did he tell you?

A. About three months after that, sometime, you know, around November, I suppose, of '81, he told me that a former employee, a lady, had just finished her Ph.D. and wanted to come back, and that if she came back, I would, I would have to be relieved.

[94] Q. By "relieved", he meant what?

A. My contract would not be renewed.

Q. What was that professor's name?

A. I don't know, but it was a young lady who was a Gannon graduate and who had finished her Ph.D. and wanted to come back – wanted to, rather, join Gannon faculty. She used to be a student, I think.

* * *

[99] A. I floated a resume all over the country this time.

Q. When you say all over the country, that would be to approximately five hundred or so colleges and universities?

A. I would say at least three or four hundred, [100] yes.

* * *

[110] Q. Did you ultimately – were you ultimately hired at Saurashtra University?

A. Yes.

Q. What position were you hired in?

A. I was hired as a full professor of economics and director of the postgraduate program in business management.

* * *

[113] Q. *** again, how long a period of time were you employed at Saurashtra University?

A. One year.

Q. From what month of what year to what month of what year?

A. April of 1983 to April of 1984.

[125] Q. When did you arrive in the Philadelphia area?

A. May of 1984.

Q. Did you contact Dr. Weissenberg at that time?

A. Yes, I did.

Q. Did you telephone him?

A. I may – I'm sure I did –

Q. Okay.

A. – because he's just across the river.

Q. Did you write to him as well or did you try to renew the contact or –

A. No, I called him up and I said that, Dr. Weissenberg, I am here and I'm looking for a position, [126] and he called back and said that I should come by for a check.

Q. And did you do that?

A. Yes.

Q. When did you do that?

A. I think that would be – I'm trying to narrow down the time period now. That would have to be sometime in the latter part of May, I think.

Q. Late May of 1984?

A. Yeah.

Q. Okay. You met with Dr. Weissenberg. Was anyone else with you when you met with him?

A. Oh, yes, Milton Leontiades. The second name is L-E-O-N-T-I-A-D-E-S. That's one word, Leontiades, and Professor Kenis, K-E-N-I-S, and a lady by the name of

Miss Fisher, and who else was there? I'm trying to think now.

* * *

[128] Q. Did you discuss salary with him at that point?

A. Yes, we discussed salary and I said, Peter, what do you think is reasonable, and he said he could offer me 30. I said, Peter, you offered me 32 back in '81 and after that I was a full professor, I was a director. Now you are saying 30. He said take it or leave it. And I said the going rate is in the upper 40s and he said, Jay, take it or leave it. He – in all fairness to me, and although I like Peter, I think Peter and Milton Leontiades – Milton Leontiades is a full professor of management, although like me he's an economics Ph.D., and like me, he has been teaching management – they both had entered into a conspiracy.

[129] Q. What do you base that accusation on?

A. I'm coming to that, Mr. Alterman. I'll tell you more about it. The plot was that I would be hired – Peter had told me a few things. I'll tell you in a minute. I would be hired and I would be let go and I would then be a colored face or a minority for three or four years. In the meantime, they would probably catch another minority man as a window dressing. This is the sort of a plot that I think he and Milton Leontiades were hatching.

Q. What do you base that belief on?

A. Okay. I base that belief on this: I told Peter, on the way when he took me back, that, Peter, I should like to buy a house, and what area would he recommend. Now, I didn't know anything about the geography of New Jersey, nor Philadelphia, really, and he said that there was no need for me to buy a house, nor for me to

call my family, you know. He said that there was no big rush, and he was dissuading me from settling down, which confirmed my belief. I knew that he was offering me a salary which was ten, maybe $15 thousand below any person coming from a full professor's position would expect.

* * *

[132] Q. Have you – did you at the time form a belief as to why he couldn't offer you more than $30 thousand per year?

A. My, my impression was that as Weissenberg saw it, I was going to be in the revolving door, so to speak, window dressing for two or three years, you know.

[133] Q. Did you form this belief at the time?

A. Yes, I did.

* * *

[145] A. You see, I was in a position where I had no job before I took the Rutgers' job. The hiring season was way behind me. There was no cash flow. I was surviving on my savings, and, knowing Peter, from what little I knew of him at that time; number one, he was a likable man; number two, he was being blatantly discriminatory; number three, hoping that there would be wiser men than him, and having an optomistic attitude toward life, I decided to go with Rutgers.

* * *

APPENDIX P

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Civil Action Docket # 88 4115 SSB

JAY B. BRIGHT, Ph.D.

plaintiff

v.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY, *et al.*,

defendants

PLAINTIFF'S AFFIDAVIT SEEKING A RULE 56(f) CONTINUANCE OF THE UNIVERSITY'S SUMMARY JUDGMENT MOTION

Plaintiff's affidavit seeking a Rule 56(f) continuance of the University's summary judgment motion

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To meaningfully controvert the brief and the affidavits accompanying said motion, plaintiff must first have full, good-faith and per-rules discovery, para 5

Discovery pursuant to Rule 45(b) is also crucial to plalintiff's meaningfully opposing said motion; that too is pending, para 6

Lindsey v. Board of Education and/or this court's interest in justice require that full, good-faith and per-rules discovery **precede** the court's deliberation on said motion, para 7

1.0 *Rule 56(f) Invoked*: The plaintiff prays that continuance on the University' said motion be granted pending reasonable, per-rules, and good-faith discovery pursuant to plaintiff's pending motions to compel discovery. SEE HERE DSI #s 169, 167, 159, 156, 141, and 102 for an outline of the problem. The plaintiff cannot, pending his motions to compel discovery, present "facts essential to justify . . . opposition" to the University's said motion; and prays that the court **"refuse the application for judgment or . . . order a continuance to permit . . . discovery to be had"** – SEE F.R.Civ.P., Rule 56(f).

2.0 *Plaintiff's motions to compel discovery are still pending* see here Docket Sheet Item nos. (DSI #s) 169, 167, 159, 156, 141, and 102, et al.

3.0 *The court's need as well for all the facts to meaningfully decide any motion for summary judgment is crucial.* The University has resorted to deceit and fraud in making any facts available to the court as well. SEE HERE among others, DSI #s 169, 167, 159, 156, 148, 120, 117, and 107.

4.0 *Events during two years immediately preceding the Complaint are equally crucial*, should this court hold valid the *Cito v. Bridgewater* decision although **the plaintiff contends that the Cito decision is irrelevant, immaterial, and imcompetent.** HERE,

(i) (a) Complaint Exhibits 16a through 24b, and (b) Complaint paras 8, 9, and 10 are equally crucial to claims under 42 USC 1981, 1983, 1985 and 1986, among other; and

(ii) Good-faith, per-rules and per case-law answers by the University to plaintiff's interrogatories are absent, denying the plaintiff crucial facts, and preventing the plaintiff from preparing a meaningful opposition to said motion. SEE HERE DSI #s 169, 167, 159, 156, 148, 141, 120, 117, 107, 102, and 98.

5.0 *To meaningfully controvert the brief and the affidavits accompanying said motion, plaintiff must first have good-faith, per-rules and full discovery from all listed defendants*, and plaintiff's motions to compel discovery from (i) the University, (ii) the Union, and (iii) United States and New Jersey are still pending before this court. SEE HERE DSI #s 169, 167, 159, 156, 141, 140, 120, 117, 107, 102, and 98. IN THE COMPLAINT, paragraphs 8, 9, and 10 among others refer to events involving, among others, (a) the University, (b) the Union, and (c) United States and New Jersey. THE EXECUTIONS OF THE AFFIDAVITS OF THE TWO UNIVERSITY OFFICIALS are objected to. SEE Exhibits 1 and 2, **attached.** Exhibit 1 has neither a signatuare nor a date nor any notarization; Exhibit 2 is not executed before a notary public (but before an attorney who does not disclose when and if he was admitted to what bar.) The plaintiff objects to any execution not before a notary public.

6.0 *To meaningfully provide rebuttals to the University's said motion, the plaintiff will also, and equally importantly, require access to documentation on plaintiff with the listed defendants F.B.I., I.N.S. and the New Jersey Division of State Police.* SE HERE DSI #s 169,

167, 141, 102, and 98, among others. And this discovery is also incomplete and pending.

7.0 *Lindsey v. Board of Education and/or this court's interest in justice require the court to put the horse before the cart: and order full, good-faith and per-rules discovery* per DSI #s 169, 167, 159, 156, 141 and 102, among others. A succinct write-up on said case law is in **Exhibit 3**, attached. With or without the invokation of said case law, this court's interest in justice requires that full discovery precede any meaningful opposition to said motion by the plaintiff and any deliberation by the court on any motion for a summary judgment which is by definition an extremely abrupt motion.

ATTACHMENTS: Exhibits 1, 2, and 3.

NO SEPARATE BRIEF SUBMITTED as none deemed necessary.

CERTIFICATE OF SERVICE: I have mailed today copies of this document to all counsel by first class mail postage prepaid.

March 2, 1990 /s/ Jay B. Bright, Ph.D.
plaintiff – *Pro se*

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 2nd DAY OF Mar. 1990
/s/ Nancie S. Schaefer
NANCIE S. SCHAEFER
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires March 2, 1994

APPENDIX Q

NOT FOR PUBLICATION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CIVIL ACTION NO. 88-4115 (SSB)

JAY B. BRIGHT,

Plaintiff,

v.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY, *et al.*,

Defendants.

OPINION

APPEARANCES:

JAY B. BRIGHT
212-B Hillcrest Avenue
Collingswood, New Jersey 08108
Plaintiff *pro se*

MARC E. ALTERMAN, Esquire
Vogel, Chait, Schwartz & Collins
Maple Avenue at Miller Road
Morristown, New Jersey 07960
Attorney for Rutgers,
The State University

DENISE REINHARDT, Esquire
Reinhardt & Schachter

744 Broad Street
Newark, New Jersey 07102
Attorney for Rutgers Council
of AAUP Chapters

BROTMAN, District Judge,

Presently before the court are the motions for summary judgment by defendants, Rutgers, The State University, and Rutgers Council of AAUP Chapters. Plaintiff's complaint alleges discrimination and violations of his civil rights while employed as an Assistant Professor of Finance at Rutgers University. Plaintiff seeks monetary damages, as well as reinstatement by Rutgers as a full professor and as director of the Graduate Business Program. For the reasons stated below, the court hereby grants the motions for summary judgment of defendants Rutgers, The State University and Rutgers Council of AAUP Chapters.

I. FACTS AND PROCEDURE

On September 21, 1988, plaintiff filed a complaint naming as defendants, Rutgers, The State University ("Rutgers"); Rutgers Council of AAUP Chapters, the faculty union at Rutgers ("AAUP"); the Federal Bureau of Investigation; the New Jersey Division of State Police and the Immigration and Naturalization Service. Although not entirely clear on its face, the complaint appears to allege violations of plaintiff's civil rights under 42 U.S.C. § 1981 (equal rights under the law); § 1983 (civil action for deprivation of rights); § 1985(2) (conspiracy to interfere with civil rights); § 1986 (action for neglect to prevent violation of civil rights); § 2000e-2(a) (unlawful employment practices) and § 2000e-3(a) (other unlawful employment practices).

Jay Bright is a naturalized citizen of the United States and of Indian origin. After earning his Ph.D. degree from the University of Houston in Texas in 1969, he spent several years working as a professor, in both the United States and India.

The specific allegations set forth by Bright concern the period from July 1, 1984 to June 30, 1988, during which plaintiff was employed by Rutgers as an Assistant Professor of Finance at the Camden Campus. In the complaint, it is not clear what type of discrimination plaintiff alleges. Plaintiff's discrimination claim is based on his view that at his time of hire in 1984, (1) his academic rank of Assistant Professor was an inappropriate "entry level" position; (2) his starting salary of $30,140 per year was $8,000-$10,000 below any others in his department and (3) his office assignment was on a separate floor from the offices of all the Ph.D.'s in his department. Plaintiff further alleges that the University administration subjected him to a "systematic conspiracy and campaign to malign, defame and discredit him" and a conspiracy to abridge his civil rights.

Plaintiff also alleges that the AAUP knowingly presented his discrimination claims to the administration late, resulting in the claims being rejected as untimely filed. He also claims that the matter was put before an unqualified arbitrator, the New Jersey Board of Mediation, as it allegedly hears complaints against "private" employers and therefore should not have heard a complaint against Rutgers, a state institution. Moreover, plaintiff claims that Rutgers colluded with the AAUP, the Federal Bureau of Investigation ("FBI"), the Immigration and Naturalization Service ("INS"), the U.S. Department of Education, other state and federal agencies and community organizations, to interfere with his civil rights.

As a result of these alleged activities, Bright claims his career and community standing have suffered irreparable harm; that he has been defamed, maligned, ostracized and humiliated, and that he has been blocked from suitable employment. He also claims pain and suffering. As relief, plaintiff seeks to be reinstated by Rutgers University as a full professor and as director of the Graduate Business Program, as well as compensation for damages.

On March 22, 1989, an order was filed dismissing plaintiff's complaint against the New Jersey Division of State Police. On April 5, 1989, the complaint against the FBI and the INS were dismissed for lack of subject matter jurisdiction. Thereafter, plaintiff filed various motions with the court seeking additional discovery, which were temporarily stayed in an order dated December 13, 1989.

The AAUP and Rutgers have both filed separate motions for summary judgment. Plaintiff responded in opposition to the AAUP's motion for summary judgment by arguing that it was untimely filed.[1] He has also requested

---

[1] In opposition to the AAUP motion, plaintiff refers to an order dated October 20, 1989 which set the deadline for defendant to file summary judgment, "fourteen (14) days after the date on which plaintiff's deposition transcripts are either corrected and certified by plaintiff or deemed final by operation of the rules of procedure and orders of this court."

Plaintiff then notes that an order dated September 21, 1989 instructed plaintiff to review, sign or make any desired changes in the deposition transcripts within a certain period of days, otherwise they would be deemed usable as though fully signed. Plaintiff petitioned and was granted a stay of this order pending appeal on October 13, 1989. This order stated that if affirmed on appeal, plaintiff would have ten (10) days from the date of affirmance in which to review the transcripts. In an order filed October 30, 1989, the order was affirmed.

[footnote continued]

a continuance pursuant to Fed.R.Civ.P 56(f), to obtain further discovery.[2] However, based on the facts presented in this case, the court finds plaintiff's position to be without merit.

II. DISCUSSION

The standard for granting summary judgment is a stringent one. Fed.R.Civ.P. 56(c) provides that summary judgment may be granted only when the materials of record "show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." *Hersh v. Allen Products Co., Inc.*, 789 F.2d 230, 232 (3d Cir 1986); *Lang v. New York Life Insurance Co.*, 721 F.2d 118 (3d Cir. 1983). The threshold inquiry is whether there are "any genuine factual issues that properly can be resolved only by a finder of fact because they may reasonably be resolved in favor of either party." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986).

On December 1, 1989, the defendant filed its motion for summary judgment, which according to plaintiff's timetable, should have been filed by November 23, 1989. Plaintiff however, has failed to show any prejudice due to this short delay, and in light of the fact that plaintiff caused the delay by his own persistent refusal to review the transcripts, this court hereby grants the defendant, AAUP, leave to file its summary judgment motion late.

[2]Plaintiff relies on vague assertions regarding the nature of the facts to be discovered in his requests. Defendants have already responded to and substantially complied with, plaintiff's request for answers to interrogatories and production of documents. Despite all of the information with which he has been presented, plaintiff fails to state what any further discovery might disclose, or what facts he is seeking, or how they would overcome defendants motions for summary judgment. Plaintiff relies only on broad conclusory allegations, and for this reason, the court must deny plaintiff's outstanding discovery motions and application for continuance.

Once the moving party has carried its burden of establishing the absence of a genuine issue of material fact, "its opponent must do more than simply show that there is some metaphysical doubt as to the material facts." *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). Thus, if the movant's evidence is merely "colorable" or is "not significantly probative," the court may grant summary judgment. *Anderson*, 477 U.S. at 249-50. Moreover, the Supreme Court has held that:

> [T]he plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial. In such a situation, there can be "no genuine issue as to any material fact," since a complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial.

Celotex Corp. v. Catrett, 477 U.S. 317, 322-323 (1986).

A. *Statute of Limitations*

Based on the facts presented in this case, both Rutgers and the AAUP argue that summary judgment must be granted due to the expiration of the applicable statute of limitations under the §§ 1981, 1983, 1985, 1986, 1988 and Title VII claims.

For claims brought pursuant to 42 U.S.C. § 1988, the federal courts must refer to state statutes of limitations when federal law provides no rule of decision in cases under §§ 1981, 1985 and 1986. *Board of Regents v.*

Tomaino, 446 U.S. 478, 484 (1980); *Robertson v. Wegmann*, 436 U.S. 584, 590 (1978). In § 1983 actions, the Supreme Court has held that the applicable limitations period is the same as the limitations period for a personal injury claim in the state where the alleged wrong occurred. *Owens v. Okure*, 488 U.S. 235 (1989); *Goodman v. Lukens Steel*, 482 U.S. 656 (1987); *Wilson v. Garcia*, 471 U.S. 261 (1985). In New Jersey, the two year personal injury statute of limitations provided in N.J.S.A. 2A:14-2 has been held applicable to § § 1981, 1983 and 1985 actions. *Cito v. Bridgewater Township Police Department*, 892 F.2d 23 (3d Cir. 1989). With respect to claims under § 1986, the statute itself provides that "no action under provision of this section shall be sustained which is not commenced within one year after the cause of action has accrued."

1. *Claims Against Rutgers, The State University*

In assessing the timeliness of plaintiff's claims, it is important to determine when the limitations period began to run. The basis of plaintiff's complaint against Rutgers involving his assigned rank, salary and office assignment occurred in July, 1984 when Bright was hired. Moreover, at his deposition, plaintiff expressly stated that he believed, *even at the time he was hired* that Rutgers was discriminating against him. Bright testified that he accepted the position believing that he could convince others at the University to remedy the discrimination. Based on plaintiff's own admissions, this court finds that the cause of action accrued, and the limitations period began to run in July, 1984 when he was assigned his position, rank, salary and had received his office assignment. More importantly, by July, 1984, plaintiff had formed the belief in his own mind that he was being discriminated against. As the statute of limitations for

actions brought pursuant to §§ 1981, 1983 and 1985 is two years, and the statute of limitations for actions under § 1986 is one year, and this action was not initiated until September, 1988, plaintiff's claims under these statutes are barred by the applicable statute of limitations.

Plaintiff also alleges violations of Title VII in his complaint. Specifically, he refers to 42 U.S.C. §§ 2000e-2(a) and 2000e-3(a). Under these section, the filing of a timely charge of discrimination with the Equal Employment Opportunity Commission ("EEOC") is required before an action may be maintained. *Alexander v. Gardner-Denver Co.*, 415 U.S. 36, 47 (1974); *McDonnell Douglas v. Green*, 411 U.S. 792, 798 (1973).

The time in which a party must file a charge of discrimination with the EEOC is set forth in § 2000e-5(e), which states that "[a] charge under this section shall be filed within one hundred eighty days after the alleged unlawful employment practice occurred. . ." With respect to plaintiff's claims based on his academic rank, salary and office assignment, plaintiff has failed to meet this requirement. Plaintiff's first charge of discrimination was filed with the EEOC on November 17, 1985. As discussed above, Bright's own deposition testimony establishes that he believed he was being discriminated against by the University when he was hired in July, 1984, and all of the alleged discriminatory conduct was complete at the time he received has assigned rank, salary and office assignment. Therefore, the actions complained of occurred well before the 180-days preceding the filing of discrimination on November 17, 1985. This court finds that plaintiff's claims based on Title VII are also time barred.

2. *Claims Against Rutgers Council of AAUP Chapters*

As examined, the applicable statute of limitations is two years for plaintiff's claims based on § § 1981, 1983 and 1985 and one year for his § 1986 claims. In his complaint, Bright alleges that the AAUP was negligent in presenting his employment grievances in an untimely manner to the administration.

Plaintiff initially contacted the AAUP with his problems early in 1985, although he never characterized them as "discrimination" until October, 1985. In May and June of 1986, plaintiff advised the AAUP that its actions in failing to represent him with respect to his salary and rank claims had harmed him. In June, 1986, after his grievance had been deemed untimely by the University, he threatened to sue the AAUP for its actions and demanded damages. The Complaint in this action was not filed until September 21, 1988, more than two years after plaintiff had explicitly accused the AAUP of the very misconduct charged in the Complaint.

Under Title VII, plaintiff is required to file a charge with the EEOC before proceeding with an action. In this case, Bright never filed an EEOC charge against the AAUP. Normally, the failure to file and EEOC claim against a party would bar plaintiff's claim, however, in his deposition, plaintiff stated that he did not file a charge against the AAUP because he believed that the University administration and the union worked "in tandem" and the union had no separate existence without the University. Even assuming that the University and the AAUP did work in tandem, and that the court could treat plaintiff's claim against Rutgers as a claim against the AAUP, as discussed above, plaintiff filed his EEOC charges against Rutgers after the statute of limitations expired. Hence, plaintiff's Title VII claims against the AAUP are time barred.

As all of plaintiff's claims are time barred, the court does not need to address defendant's other arguments for summary judgment.

III. CONCLUSION

For the above stated reasons, the court hereby grants the motions for summary judgment in favor of defendants, Rutgers, The State University and Rutgers Council of AAUP Chapters.

An appropriate order will be entered.

/s/ Stanley S. Brotman

STANLEY S. BROTMAN
UNITED STATES DISTRICT JUDGE

DATED: February 15, 1991

APPENDIX R

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CIVIL ACTION NO. 88-4115 (SSB)

JAY B. BRIGHT,

Plaintiff,

v.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY *et al.*,

Defendants.

ORDER

This matter having come before the court on motion of defendants, Rutgers, The State University and Rutgers Council of AAUP Chapters;

The Court having considered the submissions of the parties, and;

For the reasons stated in the Court's opinion filed this date;

IT IS on this 1st day of February 1991, hereby

ORDERED that defendants' motions for summary judgment are **GRANTED** and all claims against defendants are **DISMISSED WITH PREJUDICE.**

No Costs.

/s/ Stanley S. Brotman

STANLEY S. BROTMAN
UNITED STATES DISTRICT JUDGE

APPENDIX S

NOT FOR PUBLICATION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CIVIL ACTION NO. 88-4115 (SSB)

JAY B. BRIGHT,

Plaintiff,

v.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY, *et al.*,

Defendants.

OPINION

APPEARANCES:

JAY B. BRIGHT
212-B Hillcrest Avenue
Collingswood, New Jersey 08108
Plaintiff *pro se*

MARC E. ALTERMAN, Esquire
Vogel, Chait, Schwartz & Collins
Maple Avenue at Miller Road
Morristown, New Jersey 07960
Attorney for Rutgers,
The State University

DENISE REINHARDT, Esquire
Reinhardt & Schachter

744 Broad Street
Newark, New Jersey 07102
Attorney for Rutgers Council
of AAUP Chapters

BROTMAN, District Judge.

Plaintiff moves for reconsideration of the February 15, 1991 order granting summary judgment in favor of defendants, Rutgers, The State University and Rutgers Council of AAUP Chapters. Plaintiff urges the court to vacate that order. Plaintiff also moves for the court to waive the costs of transcription of the February 16, 1990 hearing on the summary judgment motions. For the reasons stated below, plaintiff's motions are denied.

I. FACTS AND PROCEDURE

Plaintiff initially brought his claim against defendants, Rutgers, The State University and Rutgers Council of AAUP Chapters pursuant to 42 U.S.C. § 1988, alleging discrimination and violations of his civil rights while employed as an Assistant Professor of Finance at Rutgers University. Due to the expiration of the applicable statutes of limitations on plaintiff's claims, the court granted summary judgment in favor of defendants in an order and opinion dated February 15, 1991. Plaintiff now seeks vacatur of this decision based on a claim of judicial misconduct. His claim seems to be that the court entered summary judgment in favor of defendants when it learned of his complaint to the Third Circuit Judicial Council against the court. Plaintiff has also requested that the court waive all fees and provide him with a transcript of his February 16, 1990 hearing.

II. DISCUSSION

As a preliminary matter, the court must determine whether it should grant plaintiff's application to waive the cost of transcription of the February 16, 1990 hearing. There is no general entitlement to free transcripts in civil cases and a decision to authorize a litigant to obtain a transcript a public expense rests within the sound discretion of the court. A. Lite, *New Jersey Federal Practice Rules* (1991 ed). at 180 (Comment 2 to General Rule 41). At this juncture, the court finds neither a factual nor legal basis for granting plaintiff's request and therefore the court must deny plaintiff's application.

The court now must turn to plaintiff's motion for reconsideration. General Rule 12I provides that a motion for reconsideration shall be served with a "memorandum setting forth concisely the matters or controlling decisions which counsel believes the Court has overlooked." The only proper ground for granting a motion for reconsideration, therefore, is that the matters or decisions overlooked, if considered by the court, "might reasonably have altered the result reached. . . ." *New York Guardian Mortgage Corp. v. Cleland*, 473 F.Supp. 409, 420 (S.D.N.Y. 1979); *U.S. v. International Business Machines Corp.*, 79 F.R.D. 412, 414 (S.D.N.Y. 1978).

Plaintiff seems to contend that the court granted summary judgment to defendants as plaintiff filed a complaint of judicial misconduct against this court. While the court was not aware of plaintiff's claim of judicial misconduct at the time the order granting summary judgment was issued, the court's decision was based on the finding that plaintiff failed to file his claims in a timely manner pursuant to statutory requirements. Plaintiff's claims were, therefore, time barred. Plaintiff's motion

fails to set forth matters which would have altered the result reached as his complaint of judicial misconduct had no affect on that decision. As a result, the court will not vacate its earlier decision.

III. CONCLUSION

For the above stated reasons, the court hereby denies plaintiff's motion for reconsideration and his motion to waive the transcript costs of his February 16, 1990 hearing.

An appropriate order will be entered.

/s/ Stanley S. Brotman

STANLEY S. BROTMAN
UNITED STATES DISTRICT JUDGE

DATED: April 2, 1991

APPENDIX T

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CIVIL ACTION NO. 88-4115 (SSB)

JAY B. BRIGHT,

Plaintiff,

v.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY *et al.*,

Defendants.

ORDER

This matter having come before the court on the motions of plaintiff, Jay B. Bright, to waive the costs of transcription of the February 16, 1990 hearing and to reconsider the court's February 15, 1991 order granting summary judgment to defendants;

The Court having considered the submissions of the parties, and;

For the reasons stated in the Court's opinion filed this date;

IT IS on this 2nd day of April, 1991, hereby

ORDERED that plaintiff's motion to waive the cost of transcription is **DENIED**; and

FURTHER ORDERED that plaintiff's motion for reconsideration is **DENIED**.

No Costs.

/s/ Stanley S. Brotman

STANLEY S. BROTMAN
UNITED STATES DISTRICT JUDGE

APPENDIX U

DSI# 195

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CIVIL ACTION NO. 88-4115 (SSB)

DR. JAY B. BRIGHT,

Plaintiff,

v.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY *et al.*,
Defendants.

ORDER

This matter having come before the court on the motion of plaintiff, Dr. Jay B. Bright, for the court to reconsider its April 2, 1991 opinion and order denying plaintiff's previous motion to reconsider the entry of summary judgment in favor of defendants, and upon plaintiff's second motion to waive the costs of transcription of the February 16, 1990 hearing previously denied in the court's April 2, 1991 opinion and order;

Having considered the submissions of the plaintiff;

The second motion to reconsider the entry of summary judgment in favor of defendants being based on the identical argument as the initial motion, namely that the court entered summary judgment in favor of the defendants when it learned of plaintiff's complaint of judicial misconduct against it;

The court having already indicated in its April 2, 1991 opinion that summary judgment was granted in favor of defendants due to the court's finding that plaintiff's claim was untimely, not because of any complaint of judicial misconduct against it;

No new matters having been raised by plaintiff's second motion to reconsider the entry of summary judgment as required by General Rule 12I;

Plaintiff also having brought a second motion to waive the cost of transcription of the February 16, 1990 hearing before this court;

Plaintiff having contended that the purchase of the transcript "would be rough on [his] budget" and that he "could conceivably purchase the said transcript and [his] family could do with less of other things; [he has] never claimed to have reached destitution" (Plaintiff's Most Urgent Petition Regarding the Mandatory Transcript Purchase Order . . . at 1, 2); and

The court finding that such reasons do not constitute good cause to provide plaintiff with a free transcript at public expense as plaintiff had not indicated that he cannot pay for the February 16, 1990 transcript;

IT IS on this 20th day of May, 1991, hereby

ORDERED that plaintiff's second motion to reconsider the entry of summary judgment in favor of defendants is DENIED; and

FURTHER ORDERED that plaintiff's second motion to waive the costs of transcription of the February 16, 1990 hearing is DENIED.

No Costs.

/s/ Stanley S. Brotman

STANLEY S. BROTMAN
UNITED STATES DISTRICT JUDGE

APPENDIX V

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 91-5353
November 26, 1991

JAY B. BRIGHT, Appellant

v.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY; et al.
(N.J. (Camden) D.C. Civil No. 88-04115)

Present: SLOVITER, *Chief Circuit Judge.*

1. Motion by Appellant pro se dated November 19, 1991 in which He requests, *inter alia*:

a) Review of the Clerk's Orders by a Single Judge

b) Denial of the Filing of Appellees' Briefs

c) A Ruling that the Filing of Appellant's Reply Briefs is moot

d) That the Clerk's Willful Distortion of the Matter before the Court be referred to the Attorney General of the United States and the appropriate committee of the U.S. Congress for their pursual [sic]

e) That the Chief Judge appoint a special panel of Circuit Judges, drawn from a different jurisdiction, to hear the Merits of the appeal

f) That the Court appoint a special Circuit Judge to oversee the procedures in this case,

Copy of Clerk's 11/26/91 order referring Appellant's 11/19/91 Motion to a single judge as a Motion to Review the Clerk's 3 orders dated 11/15/91 **and** for consideration of additional relief requested by Appellant,

Copy of Clerk's 3 orders dated 11/15/91,

2. Motion by Appellees, FBI and INS for permission to file supplemental appendix
3. Motion by Appellant to deny appellee, U.S. filing its answering brief **and** answer opposing U.S.'s motion to file supplemental appendix **and** Letter-Response by Appellees FBI and INS to appellant's motion to deny filing of appellees' brief
4. Motion by Appellee Rutgers University for permission to file supplemental appendix **and** Appellant's answer to Appellee Rutgers' Motion to file supplementary appendix
5. Motion by Appellant to deny appellee, Rutgers filing its answering brief in violation of Rules
6. Motion by Appellee, Rutgers Council for leave to file overlength brief of 59 pages and to include appendix
7. Motion by Appellant to strike brief and supplemental appendix of Appellee Rutgers
8. Motion by Appellant to 1) to deny filing of brief of appellee New Jersey Div. of State Police, in violation of the rules, *and* 2) to extend time to file reply brief until 14 days after final ruling on appellant's motions
9. Copy of this Court's Docket Entries

/s/ Rita Golden

Deputy Clerk 597-5019

ORDER

Each of the orders filed by the Clerk on November 15, 1991 in the above matter granting the motions of the appellees to file supplemental appendices is hereby reviewed and affirmed. Similarly, the order of the Clerk designated Order No. 3 requiring the Rutgers Council of AAUP Chapters to file and serve a corrected brief within ten days is reviewed and affirmed.

The orders of the Clerk referring to the merits panel the issue of the timeliness of the filing of appellees' briefs are reviewed and the reference to the merits panel is hereby reaffirmed. Appellant remains subject to the Clerk's order with respect to the time for filing a reply brief. All of the remaining motions by appellant are hereby denied.

By the Court,

/s/ Sloviter
Chief Judge

Dated: Dec 05 1991

APPENDIX W

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 91-5353

JAY B. BRIGHT

Appellant

v.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY:
RUTGERS COUNCIL OF AAUP CHAPTERS;
FEDERAL BUREAU OF INVESTIGATION,
U.S. DEPT. OF JUSTICE;
IMMIGRATION AND NATURALIZATION
SERVICE, U.S. DEPT. OF JUSTICE;
NEW JERSEY DIVISION OF STATE POLICE

Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil No. 88-04115)
District Judge: Stanley S. Brotman

Submitted Under Third Circuit Rule 12(6)
March 6, 1992
Before: STAPLETON and MANSMANN,
Circuit judges and POLLAK, *District Judge*.*

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*Honorable Louis H. Pollak of the United States District Court for the Eastern District of Pennsylvania, sitting by designation.

JUDGMENT ORDER

After consideration of all contentions raised by the appellant, it is

ADJUDGED AND ORDERED that the judgment of the district court be and is hereby affirmed.

Costs taxed against the appellant.

BY THE COURT,

/s/ Carol Los Mansmann
Circuit Judge

Attest:

/s/ Sally Mrvos, Clerk
Sally Mrvos, Clerk

MAR 16 1992

APPENDIX X

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 91-5353

JAY B. BRIGHT

Appellant

vs.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY; et al.

SUR PETITION FOR REHEARING

Present: SLOVITER, *Chief Judge*,
BECKER, STAPLETON, MANSMANN, GREENBERG,
HUTCHINSON, SCIRICA, COWEN, NYGAARD and
ROTH, *Circuit Judges*, and POLLAK, *District Judge*.*

The petition for rehearing filed by appellant in the above entitled case having been submitted to the judges who participated in the decision of this court and to all other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court in banc, the petition for rehearing is denied.

BY THE COURT,

/s/ Carol Los Mansmann
Circuit Judge

Dated: April 15, 1992

*District Judge Pollak voted only as to panel rehearing.

CHARGE OF DISCRIMINATION

EEOC 031860632

Name: Dr. Jay Bright, 212 Hillcrest Avenue, Apt. B, Collingswood, New Jersey 08108

Named is the employer who discriminated against me: Rutgers University, Camden, New Jersey 08102

Cause of discrimination based on: National Origin—Indian (East), Retaliation

Date most recent or continuing discrimination took place: 12/84 and cont.

The particulars are:

I. I was hired as an Assistant Professor in July 1984, in the Business Studies Department. The Departmental Chairman, Peter Weissenberg, told me that he will pay me an Associate Professor's salary ($30,000 per year). I agreed to this and signed a contract. In December 1984, I discovered that I am being paid less than the average Associate Professor. My pay was never adjusted and I informed Dr. Gordon (Provost) about my problem. No action was taken. On June 26, 1985, I had a meeting with Dr. Weissenberg and Dr. Gordon (my attorney at that time was present) and informed them that I believe that I am being discriminated against because of my national origin. Since that time, I have been subjected to differential treatment in the form of harassment.

II. Respondent gave me no reason for the harassment. Dr. Weissenberg's reason for the pay discrepancy was that Respondent negotiate salaries and rank on an individual basis.

III. I believe that I am being discriminated against because of my national origin Indian, and retaliated against for opposing what I perceive to be discriminatory treatment because of my national origin, in that:

a. I am the only Indian in my department and the only minority with a doctorate.

b. In December 1984, I discovered I was being paid less than the average Associate Professor's salary (approximately 43,000) and even paid less than some of the Assistant Professors. I approached Dr. Weissenberg about the discrepancy; he agreed to raise my salary by $8,000 but later denied my raise in April 1985.

c. After I complained to Dr. Gordon about the discrepancy because of my national origin, I began to experience harassment from Respondent in the form of differential treatment.

d. Respondent has denied me adequate office facilities for my books, given me less travel money than my colleagues, denied extra summer work for 1986 (my colleagues have been given two courses to teach in the summer, I am to receive only one), and more difficult work schedules. My co-workers are not subjected to this.

e. I have been informed on July 8, 1985, by Dr. Peter Weissenberg, that I will be reviewed for contract renewal this year and possibly dismissed. Employees with a three year contract, such as I have, are reviewed in their third year, not second. I believe Respondent is retaliating against me further, in the form of harassment, by reviewing me early in my second year in order to terminate my employment with Respondent.

I declare under penalty of perjury that the foregoing is true and correct.

11-14-1985
Date

/s/ Dr. Jay Bright
Charging Party

CHARGE OF DISCRIMINATION

EEOC 031862289

Name: Mr. Jay B. Bright, 212 Hillcrest Avenue, #8, Collingswood, NJ 08108

Named is the employer who discriminated against me: Rutgers University, Camden, NJ 08102

Cause of discrimination based on: Retaliation

Date most recent or continuing discrimination took place: December 1, 1985 & continuing

The particulars are:

I. I am employed by Respondent as an Assistant Professor of Finance. Since around December 1, 1985, I have been subjected to various forms of harassment and intimidation.

II. Until March 20, 1985, Respondent failed to acknowledge some of the harassment I was subjected to and made no attempt to correct the problem.

III. I believe that I have been discriminated against in retaliation for having previously filed a charge of discrimination for the following reasons:

a. On November 14, 1985, I filed a charge of discrimination with the Equal Employment Opportunity Commission, Charge Number 031860632. Said charge is pending investigation.

b. From December, 1985 until March 19, 1986 I was denied the request for installation of a Square Bolt Lock on my office door. The request was made because of frequent break-ins during my absence from the office.

On March 20, 1986, Respondent responded to my request for a Square Bolt Lock by installing such.

c. I was informed that I would not receive full reimbursement for academic travel. Respondent has failed to reimburse me for travel which occurred in October, 1985 and March, 1986. My PH.D colleagues are fully compensated for Academic Travel shortly after their return.

d. I contend that my in-coming telephone calls are being monitored. This became evident to me after having filed a charge of discrimination.

e. On May 5, 1986 Respondent rejected my request for adjustment in rank to the position of Associate Professor as opposed to promotion.

I declare under penalty of perjury that the foregoing is true and correct.

5-8-1986
Date

/s/ Jay B. Bright, Ph.D.
Charging Party

CHARGE OF DISCRIMINATION

EEOC 170871770

Name: Professor Jay B. Bright, 212 Hillcrest Avenue, #B, Collingswood, NJ 08108

Named is the employer who discriminated against me: Rutgers University, Camden, NJ 08102

Cause of discrimination based on: Retaliation

Date most recent or continuing discrimination took place: September 1, 1986 & Continuing

The particulars are:

I. I am employed by Respondent as an Assistant Professor of Finance. Since in or about December, 1985 I have been subjected to various forms of harassment and intimidation. Since September, 1986 the differential treatment in which I have been subjected to has become more intense and escalating in nature.

II. No reason has been given for the harassment, intimidation or differential treatment.

III. I believe that I have been discriminated against in retaliation for having previously filed charges of discrimination for the following reasons:

a. On November 14, 1985 I filed a charge of discrimination, alleging discrimination based on my national origin with the Equal Employment Opportunity Commission. Said charge number 031860632 is pending investigation.

b. On May 8, 1986 I filed another charge of discrimination with the Equal Employment Opportunity

Commission, alleging retaliation. Said charge number 031862289 is pending investigation.

c. Since filing my initial charge in November, 1985 it is my belief that Respondent continuously conspires with students, faculty and staff to destabilize my work; discredit and defame my character.

d. Although Professors are expected to use computers in their classrooms within the faculty of Business Studies Department, despite repeated requests I was not assigned a table top computer as was Instructor Rathinasamy who also teaches finance. Instructor Rathinasamy, a visiting instructor has not filed a charge of discrimination.

e. Even though it is not a practice or policy of Respondent to have administrators to sign the name of another employee, I discovered that on two occasions my name was signed on official documents without my knowledge or approval.

f. I was appointed a member of the MBA committee. On February 25, 1987 at a meeting of that committee I questioned the committee members on irregularities in the MBA program. On February 26, 1987, the committee was disbanded and a new MBA committee was created, excluding me as a member.

g. On March 3, 1987 the scheduling for the teaching load for the Fall of 1987 was distributed. It was noted that I was assigned a heavier load than any of my counterparts, except Professor Bettencourt. It is my belief that Professor Bettencourt's teaching load equals mine only to distract attention from the main issue, retaliation.

I declare under penalty of perjury that the foregoing is true and correct.

3-18-1987
Date

/s/ Dr. Jay Bright, Ph.D.
Charging Party

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
PHILADELPHIA DISTRICT OFFICE
1421 Cherry Street, 6th Floor
Philadelphia, Pennsylvania 19102

Charge Number 031860632

Dr. Jay Bright
212 Hillcrest Avenue, Apt. B
Collingswood, NJ 08108
CHARGING PARTY

v.

Rutgers University
Camden, NJ 08102

RESPONDENT

DETERMINATION

Under the authority vested in me by the Procedural Regulations of the Equal Employment Opportunity Commission (EEOC), I issue the following determination as to the merits of the subject charge filed under Title VII of the Civil Rights Act of 1964, as amended (Title VII).

All requirements for coverage have been met. Charging Party alleged that he was discriminated against in violation of Title VII because of his national origin, Indian, and retaliated against for opposing what he alleges to be discriminatory treatment. He contends that he was being

paid less than the average Associate Professor and even less than some of the Assistant Professors; that he complained of the salary discrepancy and that Respondent subsequently treated him differently by harassing him, denying him adequate office space and furniture, less travel funds and extra summer work during 1986. Charging Party alleges further harrassment in that Respondent informed him that his contract would be reviewed for renewal in the second year of his three (3) year contract and that he would possibly be dismissed.

Evidence obtained by the Commission indicates Charging Party is the only Indian in the Faculty of Business Studies (FBS). Charging Party negotiated and signed a contract accepting respondent's offer of a three (3) year appointment as an Assistant Professor in the Faculty of Business Studies at a salary of $30,140 (range 26 step 21) as of July 1, 1984 pursuant to the collectively negotiated agreement between Respondent and Respondent's Council of American Association of University Professors (AAUP) Chapters. Charging Party and the Associate Dean of the Faculty of Business Studies held discussions and/or negotiations concerning employment at Respondent's facility during the early months of 1984 and an appointment letter (contract) was executed by the Charging Party and returned to Respondent by letter dated June 13, 1984 accepting all terms and conditions.

The available funding for the line to which Charging Party was appointed was $27,084. The Associate Dean sought and received from the campus provost an additional sum of $3,093 to bring Charging Party's salary to $30,177. This amount corresponded to the salary sought by Charging Party in his March 23, 1984 letter to the Associate Dean in which he stated ". . . I have in mind a figure in the low 30's . . .".

No evidence was found to substantiate the allegation that the negotiated contract and the appointment of Charging Party was discriminatory.

The evidence of record shows that the assignment of offices and office furniture was made on the basis of availability of office space and furniture at time of appointment. However, an effort was made, where possible, to place individuals with the same area of expertise in the same vicinity. The only office available when Charging Party was hired was on the fifth floor. Additionally, the only other specialist in finance, who also has a Ph.D. is located on the fifth floor. There are other faculty members with a Ph.D. located on the fifth floor.

Faculty members were reimbursed for travel in accordance with Respondent's travel reimbursement policy which established criteria for full or partial reimbursement. A review of Respondent's records did not substantiate Charging Party's claim of disparity in the allocation of travel funds. Charging Party's allegation that he was denied summer work for 1986 and received a more difficult work schedule than his colleagues could not be substantiated. Charging Party requested the Associate Dean to initiate reappointment/promotion review on his behalf in his second year; but, the Appointment and Promotions Committee recommended no personnel action be taken until the third year of his three (3) year appointment.

Based on this analysis, I have determined that the evidence obtained during the investigation does not establish a violation of the statute.

This determination does not conclude the processing of this charge. If the Charging Party wishes to have this determination reviewed, he may file a request for review

by completing the enclosed Request for Review form and sending it to the Determinations Review Program, Office of Program Operations, EEOC, 2401 E. Street, N.W., Washington, D.C. 20507. It is recommended that some proof of mailing, such as a certified mail receipt, be secured. The request must be personally delivered or mailed (postmarked) on or before December 1, 1987.

If the Charging Party submits a timely request for review by the date shown above, the Commission will review this determination. Upon completion of the review, the Charging Party and Respondent will be issued a final determination which will contain the results of the review and what further action, if any, the Commission may take. The final determination will also give notice, as appropriate, of the Charging Party's right to sue.

If the Charging Party does not request a review of this determination by December 1, 1987, this determination will become final the following day, the processing of this charge will be complete, and the charge will be dismissed. (This letter will be the only notice of dismissal and the only notice of the Charging Party's right to sue which will be sent by the Commission.) FOLLOWING DISMISSAL, THE CHARGING PARTY MAY ONLY PURSUE THIS MATTER FURTHER BY FILING SUIT AGAINST THE RESPONDENT(S) NAMED IN THE CHARGE IN FEDERAL DISTRICT COURT WITHIN 90 DAYS OF THE EFFECTIVE DATE OF DISMISSAL. Therefore, in the event a request for review is not made, if a suit is not filed by March 1, 1988, the Charging Party's right to sue will be lost.

11/5/87
Date

/s/ Johnny J. Butler
Johnny J. Butler
District Director

Enclosures: (to Charging Party)
Request for Review Form
Information Sheet on Filing Suit in Federal Court

NOTICE TO ATTORNEYS: The Commission's regulations governing no cause determinations are printed in Title 29 Code of Federal Regulations, Section 1601.19

Date Mailed by EEOC November 17, 1987.

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
PHILADELPHIA DISTRICT OFFICE
1421 Cherry Street, 6th Floor
Philadelphia, Pennsylvania 19102

Charge Number 031862289

Dr. Jay Bright
212 Hillcrest Avenue, Apt. B
Collingswood, NJ 08108
CHARGING PARTY

v.

Rutgers University
Camden, NJ 08102
RESPONDENT

DETERMINATION

Under the authority vested in me by the Procedural Regulations of the Equal Employment Opportunity Commission (EEOC), I issue the following determination as to the merits of the subject charge filed under Title VII of the Civil Rights Act of 1964, as amended (Title VII).

All requirements for coverage have been met. Charging Party alleged that he was discriminated against in violation of Title VII in that he alleges he was retaliated against for having previously filed a charge of discrimination. Charging Party asserts that since the filing of his charge (031860632) on November 14, 1985, his request

for the installation of a Square Bolt Lock on his office door because of frequent break-ins has been denied; that he has not been fully reimbursed as his colleagues have been for academic travel; that his incoming telephone calls were monitored and on May 5, 1986, Respondent rejected his adjustment in rank to the position of Associate Professor.

Evidence obtained by the Commission reveals that Charging Party requested a second square bolt lock to be placed on his door by letters dated September 26, 1985, October 15, 1985 and November 6, 1985 due to complaints made by Charging Party of security breaches. Respondent's Associate Dean requested a university police investigation into the matter and noted on October 21, 1985 that no additional lock should be installed pending the police investigation. Accordingly, Respondent acted upon Charging Party's charges of security breaches prior to his filing of the first charge. The police department investigated the complaints and no evidence of criminality or misconduct was found.

The evidence also shows that Charging Party received reimbursement for academic travel in accordance with established criteria. Reimbursement for travel varies depending upon the nature and purpose of the travel, particular function attended and the location.

Charging Party's allegation that his incoming telephone calls were monitored could not be substantiated.

Charging Party's request for promotion from Assistant Professor to Associate Professor was received by the Associate Dean. The request was reviewed and evaluated by a committee of his peers who declined to take any action at that time.

Based on this analysis, I have determined that the evidence obtained during the investigation does not establish a violation of the statute.

This determination does not conclude the processing of this charge. If the Charging Party wishes to have this determination reviewed, he may file a request for review by completing the enclosed Request for Review form and sending it to the Determinations Review Program, Office of Program Operations, EEOC, 2401 E. Street, N.W., Washington, D.C. 20507. It is recommended that some proof of mailing, such as a certified mail receipt, be secured. The request must be personally delivered or mailed (postmarked) on or before December 1, 1987.

If the Charging Party submits a timely request for review by the date shown above, the Commission will review this determination. Upon completion of the review, the Charging Party and Respondent will be issued a final determination which will contain the results of the review and what further action, if any, the Commission may take. The final determination will also give notice, as appropriate, of the Charging Party's right to sue.

If the Charging Party does not request a review of this determination by December 1, 1987, this determination will become final the following day, the processing of this charge will be complete, and the charge will be dismissed. (This letter will be the only notice of dismissal and the only notice of the Charging Party's right to sue which will be sent by the Commission.) FOLLOWING DISMISSAL, THE CHARGING PARTY MAY ONLY PURSUE THIS MATTER FURTHER BY FILING SUIT AGAINST THE RESPONDENT(S) NAMED IN THE CHARGE IN FEDERAL DISTRICT COURT WITHIN 90 DAYS OF THE EFFECTIVE DATE OF DISMISSAL. Therefore, in the event a request for review is not made, if a suit is not

filed by March 1, 1988, the Charging Party's right to sue will be lost.

11/5/87
Date

/s/ Johnny J. Butler
Johnny J. Butler
District Director

Enclosures: (to Charging Party)
Request for Review Form
Information Sheet on Filing Suit in Federal Court

NOTICE TO ATTORNEYS: The Commission's regulations governing no cause determinations are printed in Title 29 Code of Federal Regulations, Section 1601.19

Date Mailed by EEOC November 17, 1987.

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
PHILADELPHIA DISTRICT OFFICE
1421 Cherry Street, 10th Floor
Philadelphia, Pennsylvania 19102

Charge Number 170871770

Dr. Jay Bright
212 Hillcrest Avenue, Apt. B.
Collingswood, NJ 08108
CHARGING PARTY

v.

Rutgers University
Camden, NJ 08102
RESPONDENT

DETERMINATION

Under the authority vested in me by the Procedural Regulations of the Equal Employment Opportunity Commission (EEOC), I issue the following determination as to the merits of the subject charge filed under Title VII of the Civil Rights Act of 1964, as amended (Title VII).

All requirements for coverage have been met. Charging Party alleged that he was discriminated against in violation of Title VII in that the Respondent retaliated against him for filing previous charges of discrimination (see charge number 031860632 and 031862289) in violation of Title VII of the Civil Rights Act of 1964, as amended.

Charging Party asserts that since filing the previous charges, Respondent has conspired with students, faculty and staff in destabilizing his work, discrediting and defaming his character, denying him a table top computer, signing his name on official documents without his knowledge or approval excluding him from the MBA Committee, and assigning him heavier workload than similarly situated faculty members.

Respondent states and the evidence of record shows that during July 1986, the newly appointed Dean of Faculty of Business Studies (FBS) initiated action to obtain computer equipment and software for FBS faculty members. The FBS faculty members, administrators and staff were solicited to describe their computer needs. The faculty was advised during January 1987 of the availability of a limited number of personal computers from the Continuing Business Studies Development (CBSD) to the FBS for use on a first-come, first-served basis provided they could be retrieved if needed. The Charging Party did not request use of one of these computers. Additionally, the records show that other computer equipment to upgrade the computer laboratory was ordered and received during February 1987. The old computers were made available to FBS and scheduled for installation during spring break (March 1987). The computer was not placed in Charging Party's office during spring break as the university did not have access to his office due to the installation of a second lock on his office door. Charging Party was advised that his computer would be installed as soon as he was available on campus.

Other evidence shows that Charging Party's name was signed on a drop course by the Director of Academic Advising in accordance with Respondent's policy. Re-

spondent does not know who falsely signed the Charging Party's name on the course Addition Form.

Respondent states and records show that on October 1986, the Charging Party was appointed a member of the MBA Review Committee because of his previous experience with a MBA Program. The records show that the appointment was made after the Charging Party had filed two (2) previous charges.

Subsequent to Charging Party's appointment, Respondent contends that Charging Party began diverting the Committee from its assigned duties and purpose, when he attempted to use it as a vehicle for redressing his differences and grievances with Respondent. Respondent admits that the Committee was subsequently disbanded and a Special MBA Review Committee established from which Charging Party was excluded.

The evidence of record fails to sustain Charging Party's retaliation allegations. Furthermore, Charging Party's remaining allegations, that he was assigned a heavier workload than his counterparts, that Respondent conspired with students, faculty, and staff to destabilize his work, and that Respondent discredited and defamed his character could not be substantiated.

Based on this analysis, I have determined that the evidence obtained during the investigation does not establish a violation of the statute.

This determination does not conclude the processing of this charge. If the Charging Party wishes to have this determination reviewed, he may file a request for review by completing the enclosed Request for Review form and sending it to the Determinations Review Program, Office of Program Operations, EEOC, 2401 E. Street, N.W., Washington, D.C. 20507. It is recommended that

some proof of mailing, such as a certified mail receipt, be secured. The request must be personally delivered or mailed (postmarked) on or before March 31, 1988.

If the Charging Party submits a timely request for review by the date shown above, the Commission will review this determination. Upon completion of the review, the Charging Party and Respondent will be issued a final determination which will contain the results of the review and what further action, if any, the Commission may take. The final determination will also give notice, as appropriate, of the Charging Party's right to sue.

If the Charging Party does not request a review of this determination by March 31, 1988, this determination will become final the following day, the processing of this charge will be complete, and the charge will be dismissed. (This letter will be the only notice of dismissal and the only notice of the Charging Party's right to sue which will be sent by the Commission.) FOLLOWING DISMISSAL, THE CHARGING PARTY MAY ONLY PURSUE THIS MATTER FURTHER BY FILING SUIT AGAINST THE RESPONDENT(S) NAMED IN THE CHARGE IN FEDERAL DISTRICT COURT WITHIN 90 DAYS OF THE EFFECTIVE DATE OF DISMISSAL. Therefore, in the event a request for review is not made, if a suit is not filed by June 30, 1988, the Charging Party's right to sue will be lost.

3/14/88
Date

/s/ Alfred Davis for
Johnny J. Butler
District Director

Enclosures: (to Charging Party)
Request for Review Form
Information Sheet on Filing Suit in Federal Court

NOTICE TO ATTORNEYS: The Commission's regulations governing no cause determinations are printed in Title 29 Code of Federal Regulations, Section 1601.19

DATE OF MAILING March 17, 1988

U.S. EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Washington, D.C. 20507

Charge Number: 031862289

TO: Rutgers University
5th Street
Camden, NJ 08102

June 21, 1988

Jay B. Bright
Charging Party

Rutgers University
Respondent

DETERMINATION ON REVIEW AND DISMISSAL
OF TITLE VII CHARGE

The Commission has reviewed the investigation of this charge of employment discrimination and all supplemental information furnished. Based upon this review, we agree with the determination issued by our field office and hereby issue a final determination that the evidence obtained during the investigation does not establish a violation of the statute. Therefore, the Commission dismisses and terminates its administrative processing of this charge.

As the charge alleged a Title VII violation, this is notice that if the Charging Party wishes to pursue this matter further, (s)he may do so by filing a private action in Federal District Court against the Respondent(s) named above within 90 days of receipt of this Determination.

IF CHARGING PARTY DECIDES TO SUE, CHARGING PARTY MUST DO SO WITHIN 90 DAYS FROM

THE RECEIPT OF THIS DETERMINATION; OTHERWISE THE RIGHT TO SUE IS LOST.

On Behalf of the Commission:

/s/ L. Guarraia
Leonora L. Guarraia
Director
Determinations Review Program

Enclosure: Information Sheet on Filing
Suit in Federal District Court

cc: Johnny J. Butler
District Director
Philadelphia Dist. Office

U.S. EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Washington, D.C. 20507

Charge No. 170-87-1770

Dr. Jay Bright
212 Hillcrest Avenue, Apt. B
Collingswood, NJ 08108

Charging Party

Rutgers University
Camden, NJ 08102
Respondent

Respondent

DETERMINATION ON REVIEW AND DISMISSAL
OF TITLE VII CHARGE

The Commission has reviewed the investigation of this charge of employment discrimination and all supplemental information furnished.

In his Request for Review, Charging Party alleges that the Commission inadequately investigated his allegations that the university administration and others blatantly involved themselves in a conspiracy to discredit his complaint of discrimination. This allegation has been made previously in other charges filed with the Commission. The Commission found no cause to believe that Charging Party's previous allegations were true. Nevertheless, this charge was fully investigated and our review did not disclose any evidence to support Charging Party's allegations. Charging Party's specific allegations of retaliation

were also found to be without merit. The evidence in the file is sufficient to reach this conclusion without the testimony of witnesses or further investigation.

Based upon this review, we agree with the determination issued by our field office and hereby issue a final determination that the evidence obtained during the investigation does not establish a violation of the statute. Therefore, the Commission dismisses and terminates its administrative processing of this charge.

As the charge alleged a Title VII violation, this is notice that if the Charging Party wishes to pursue this matter further, he may do so by filing a prvate action in Federal District Court against the Respondent named above within 90 days of receipt of this Determination. **IF CHARGING PARTY DECIDES TO SUE, CHARGING PARTY MUST DO SO WITHIN 90 DAYS FROM THE RECEIPT OF THIS DETERMINATION; OTHERWISE THE RIGHT TO SUE IS LOST.**

On Behalf of the Commission:

/s/ L. Guarraia
Leonora L. Guarraia
Director
Determinations Review Program

Enclosed: Information Sheet on Filing
Suit in Federal District Court

cc: Johnny J. Butler
District Director
Philadelphia District Office

Frank Finch, III
McDaniels, Dade Wheeler & Walwyn

1616 Walnut St., Suite 1910
Philadelphia, PA 19103

John B. Wolf, Esq.
Employment and Labor Counsel
Rutgers, State University
60 College Avenue
New Brunswick, NJ 08903

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Charge Number: 031860632

TO: Rutgers University
Camden NJ 08102

June 21, 1988

Jay Bright
Charging Party

Rutgers University
Respondent

DETERMINATION ON REVIEW AND DISMISSAL OF TITLE VII CHARGE

The Commission has reviewed the investigation of this charge of employment discrimination and all supplemental information furnished. Based upon this review, we agree with the determination issued by our field office and hereby issue a final determination that the evidence obtained during the investigation does not establish a violation of the statute. Therefore, the Commission dismisses and terminates its administrative processing of this charge.

As the charge alleged a Title VII violation, this is notice that if the Charging Party wishes to pursue this matter further, (s)he may do so by filing a private action in Federal District Court against the Respondent(s) named above within 90 days of receipt of this Determination.

IF CHARGING PARTY DECIDES TO SUE, CHARGING PARTY MUST DO SO WITHIN 90 DAYS FROM

THE RECEIPT OF THIS DETERMINATION; OTHERWISE THE RIGHT TO SUE IS LOST.

On Behalf of the Commission:

/s/ L. Guarraia
Director
Determinations Review Program

Enclosure: Information Sheet on Filing
Suit in Federal District Court

cc: Johnny J. Butler
District Director
Philadelphia Dist. Office

APPENDIX Z

STATUTORY PROVISIONS INVOLVED

42 U.S.C. § 1981. Equal rights under the law

All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

42 U.S.C. § 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. * * *

42 U.S.C. § 1985(3)

(3) Depriving persons of rights or privileges. If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Ter-

ritory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

42 U.S.C. § 1986.

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in the preceding section, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action, and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding five thousand

dollars damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

42 U.S.C. § 1988.

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this Title, and of Title "CIVIL RIGHTS," and of Title "CRIMES," for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty. * * *

42 U.S.C. § 2000e-2(a)

(a) Employer practices. It shall be an unlawful employment practice for an employer–

(1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such

individual's race, color, religion, sex, or national origin; or

(2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.

42 U.S.C. §2000e-3(a)

(a) **Discrimination for making charges, testifying, assisting, or participating in enforcement proceedings.** It shall be an unlawful employment practice for an employer to discriminate against any of his employees or applicants for employment, for an employment agency, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he has opposed any practice made an unlawful employment practice by this title, or because he has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this title.

42 U.S.C. §2000e-5(e)

(e) **Time for filing charges; time for service of notice of charge on respondent; filing of charge by Commission with State or local agency.** A charge under this section shall be filed within one hundred and eighty days after the alleged unlawful employment practice occurred and notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) shall be served upon the person against whom such charge is made within ten days thereafter, except that in

a case of an unlawful employment practice with respect to which the person aggrieved has initially instituted proceedings with a State or local agency with authority to grant or seek relief from such practice or to institute criminal proceedings with respect thereto upon receiving notice thereof, such charge shall be filed by or on behalf of the person aggrieved within three hundred days after the alleged unlawful employment practice occurred, or within thirty days after receiving notice that the State or local agency has terminated the proceedings under the State or local law, whichever is earlier, and a copy of such charge shall be filed by the Commission with the State or local agency.

N.J.S.A. 2A:14-2.

Every action at law for an injury to the person caused by the wrongful act, neglect or default of any person within this state shall be commenced within 2 years next after the cause of any such action shall have accrued.

92-254

No. 92-245

Supreme Court, U.S.
FILED
SEP 9 1992
OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1992

Jay B. Bright,

Petitioner,

vs.

Rutgers, the State University, et al.,

Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

BRIEF IN OPPOSITION OF RESPONDENT RUTGERS COUNCIL OF AAUP CHAPTERS

PAUL SCHACHTER
Counsel of Record
DENISE REINHARDT
REINHARDT & SCHACHTER, P.C.
744 Broad Street, Suite 3100
Newark, New Jersey 07102
(201) 623-1600

Attorneys for the Respondent
Rutgers, the State University

September 1992

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COUNTERSTATEMENT OF QUESTIONS PRESENTED

1. Did the courts below correctly determine issues of procedure governing the filing of papers and the taking of discovery?

2. Did the courts below correctly determine that plaintiff's claims against the Rutgers Council of AAUP Chapters were barred by the statutes of limitations and failure to fulfill procedural requirements?

LIST OF PARTIES
TO THIS PROCEEDING

Petitioner:

Jay B. Bright

Respondents:

Rutgers, the State University

Rutgers Council of AAUP Chapters

The Federal Bureau of Investigation, U.S. Department of Justice

The Immigration and Naturalization Service, U.S. Department of Justice

New Jersey Division of State Police

There are no parent or subsidiary companies to any party.

BRIEF IN OPPOSITION OF RESPONDENT RUTGERS COUNCIL OF AAUP CHAPTERS

Respondent Rutgers Council of AAUP Chapters respectfully requests that this Court deny the petition for a writ of certiorari. The petition raises no "special and important reasons" for granting the writ of certiorari, but merely seeks review of the correct application of Federal Rules of Civil Procedure and of the statutes of limitations to the particular facts of this case.

STATEMENT OF THE CASE

A. Proceedings Below

Jay B. Bright ("Bright"), petitioner *pro se*, filed his Complaint on September 21, 1988 against respondents Rutgers, the State University, Rutgers Council of AAUP Chapters, ("AAUP" or "the union") and several federal and state agencies. Bright had been employed by Rutgers since July 1984 as a nontenured Assistant Professor of Finance. Bright's Complaint alleged, among many claims against the other respondents, that the AAUP failed to file his grievance over his initial rank and salary in a timely way, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.*; and 42 U.S.C. §§ 1981, 1983, 1985(3), 1986 and 1988. Although the Complaint invoked the pendent jurisdiction of the district court it contained no state law claims against the AAUP. Complaint.[1]

Service on the AAUP was accomplished by mail on November 9, 1988. The union acknowledged service of

---

1. Petitioner proceeded on the original record below; the references are to district court docket entries.

the Complaint by signing and returning Form 18A as prescribed by Fed. R. Civ. P. 4(c)(2)(C)(ii) on November 15, 1988. On December 5, the AAUP timely applied *ex parte* for an order extending time within which to answer, under General Rule 13.B. of the United States District Court for the District of New Jersey. Opinion, January 24, 1989. That order was entered on December 8, 1988 and the union timely answered the Complaint within the extended time. Answer of AAUP. Plaintiff's motion for default judgment against the union was dismissed on January 24, 1989 because the AAUP had never been in default. Opinion and Order, January 24, 1989.

The district court dismissed the claims against the state police on Eleventh Amendment grounds. Opinion and Order, March 27, 1989. The federal parties were dismissed on grounds of sovereign immunity. Opinion and Order, April 5, 1989. The remaining parties then engaged in discovery. Bright complained virtually constantly of the failure of the court and the parties to behave as he believed the federal rules required. Discovery Order, May 26, 1991; Letter Opinion and Order, July 21, 1989; Letter Opinion and Order, October 30, 1989; Opinion and Order, October 30, 1989. Of apparent relevance to the petition is his motion to suppress transcripts of his deposition testimony, based on his claim of deficiencies in procedure. Noting that "plaintiff's position is largely frivolous," the Magistrate Judge denied the motion on September 21, 1989, permitting Bright further time to read, correct if necessary, and sign the transcripts. Letter Opinion and Order, September 21, 1989. The District Judge affirmed this order on appeal on October 30, 1989. Opinion and Order, October 30, 1989.

Bright also moved to compel more complete answers to interrogatories in "complete sentences" on September 11, 1989; the motion was denied by the

Magistrate Judge on October 30, 1989 because Bright had not complied with the local rules' requirement that he confer with counsel before moving, even after previous admonishment that he must do so. Letter Opinion and Order, October 30, 1989. Plaintiff thereafter again moved to compel discovery and, for the fourth time, for an extension of the cutoff date for discovery. That motion was stayed after plaintiff attempted to appeal various interlocutory rulings to the U.S. Court of Appeals for the Third Circuit. Letter Order, December 23, 1989.

The AAUP moved for summary judgment on several grounds, including statutes of limitations and failure to exhaust administrative remedies, filing its submissions on December 1, 1989 pursuant to court direction in its October 30, 1989 Order. Notice of Motion, December 1, 1989. Plaintiff objected that the motion should have been filed on November 23, 1989; the district court in granting summary judgment to the AAUP granted the AAUP leave, if leave were necessary, to file its motion *nunc pro tunc*. Opinion, February 20, 1991; A24-25.[2] The district court also denied plaintiff's discovery motions, as defendants had substantially complied with his requests and as plaintiff had failed to demonstrate what any additional discovery might show, or how that discovery would help him to overcome the summary judgment motion. A25. On February 20, 1991, the district court dismissed the Complaint against the AAUP, and also against Rutgers, which had filed its own summary judgment motion. Order, February 20, 1991. Plaintiff moved for reconsideration twice; it was twice denied. Orders of April 5 and May 6, 1991.

---

2. "A" refers to the Petitioner's Appendix before this court.

Petitioner appealed from virtually every aspect of every order entered. Notice of Appeal; Brief on Appeal. The U.S. Court of Appeals for the Third Circuit affirmed without opinion the judgment of the district court, by judgment order dated March 16, 1992. A6-8. The petition for rehearing was denied April 15, 1992. A8-9.

B. Facts

Jay B. Bright was appointed Assistant Professor of Finance at the Camden Campus of Rutgers, the State University in July 1984. Complaint, ¶5. Rutgers is an instrumentality of the state for purposes of operating the state university. N.J.S.A. 18A.:65-1 *et seq*. Rutgers offered Bright the salary of $30,104 per annum and the rank of Assistant Professor in May 1984. Affidavit of Denise Reinhardt, December 1, 1980 ("Reinhardt Aff."), Ex. 3 at 128. Despite Bright's belief in May 1984 that the salary and rank offered him were "blatantly discriminatory" on account of his race, color and national origin, he accepted them. Reinhardt Aff., Ex. 3 at 129; Ex. 4 at 16, 22.

The Rutgers Council of AAUP Chapters is an unincorporated association that exists to represent the professional and economic interests of faculty members and other at Rutgers. 3A10.[3] At the time Bright was appointed, there was a collective negotiations agreement in effect between the AAUP and Rutgers. That agreement provided salary tables which established salaries for each instructional rank. 3A10-11. The placement of newly-appointed faculty members in rank and salary occurred by agreement between the

---

3. This refers to the AAUP's appendix on appeal before the U.S. Court of Appeals for the Third Circuit.

administration and the new teacher. The AAUP did not participate at all in this process. 3A11.

The grievance procedure relevant to Bright's claim set a deadline for filing a grievance of six months from the date when the grievant should reasonably have known of the violation. Bright had the opportunity to use the grievance procedure from the moment he became employed by Rutgers. Despite his belief that he had been subject to discrimination in rank and salary at his hire in May 1984, Bright did not try to enlist the union's assistance until 1985, although he was familiar with both the union and its officers well before then. 3A14; Reinhardt Aff., Ex. 1 at 55.

In early 1985, Bright sought the advice of a union officer in Camden about his rank-and-salary complaint, which he did not then claim to be the result of discrimination against him. Reinhardt Aff., Ex. 1 at 91; Ex. 3 at 189. The officer advised Bright of his rights to grieve, and instructed him how to do that. Bright admitted that after this conversation in early 1985 he had no reason to believe the AAUP would do anything for him. Reinhardt Aff., Ex. 1 at 58-59.

Finally, in May 1985, months after learning how and when to file a grievance, Bright presented his rank-and-salary complaint in writing directly to Rutgers, not through the grievance procedure. Complaint, Ex. 2A.

Bright filed his first Charge of Discrimination about his rank-and-salary complaint with the United States Equal Employment Opportunity Commission on November 14, 1985, alleging that he had discovered the pay disparity in December 1984. The union was not named as a respondent, nor was its existence or conduct even mentioned, in this or any other EEOC charge.

Reinhardt Aff., Ex. 1 at 34 and 296. Bright was fully aware of the EEOC, its role and its procedures, having twice before in the 1970's invoked its mechanisms. Reinhardt Aff., Ex. 1 at 24-25, 28.

When the AAUP first received Bright's request and authority to act on his behalf, it filed a grievance on his behalf alleging discrimination and other ill treatment in rank salary on May 16, 1986. Keddie Aff., Ex. 16. On May 22, however, Bright directed the AAUP to withdraw the grievance it from the administration. 3A22. Meanwhile, on May 29, 1986, Rutgers had already found the grievance to be untimely, since the grievance and supporting documents indicated that Bright knew of the facts constituting the grievance in summer and fall 1984, well outside the six month filing deadline for grievances. Ex. 9 to the Complaint. Bright on June 19, 1986, refused to permit the union to act further on his behalf and charged the union with filing an "untimely and deceitful" early grievance, being negligent and deceitful, since early 1985, committing malpractice, and colluding and conspiring in regard to his case. He demanded the union pay him "$4.0 million" in damages. He declined to assist in retrieving the grievance. 3A30.

On May 8, 1986, Prof. Bright filed a second Charge of Discrimination with the EEOC against Rutgers, but again he did not name the AAUP or describe its conduct in any way. Ex. 16c to the Complaint.

On March 18, 1987, Bright filed his third Charge of Discrimination with the EEOC again neither naming nor mentioning the AAUP. Complaint, Ex. 16d.

Bright was notified by Rutgers that his three-year appointment was not renewed on April 27, 1988. 3A23. He did not grieve this nonreappointment. Bright's

employment ceased after the end of his terminal year, in May 1988. 3A23.

REASONS FOR DENYING THE WRIT

NO "SPECIAL AND IMPORTANT REASONS" EXIST FOR GRANTING THE PETITION

Rule 10.1 of the Rules of Supreme Court of the United States states, in part:

> A petition for a writ of certiorari will be granted only when there are special and important reasons therefor.
>
> "[Sp]ecial and important reasons" do not include "an intellectually interesting and solid problem":
>
> . . . [T]his Court does not sit to satisfy a scholarly interest in such issues. Nor does it sit for the benefit of the particular litigants. "Special and important reasons" imply a reach to a problem beyond the academic or the episodic.

Rice v. Sioux City Memorial Park Cemetery, 349 U.S. 70, 74 (1955), construing a predecessor to the current Rule.

In his petition, Bright has failed to distinguish his case from any of the thousands of cases in which a party feels distress over the correct application of procedural rules and the standard for summary judgment.

I. There Are No "Special And Important Reasons" To Review The Lower Courts' Correct Rulings On Discovery

The regulation of discovery proceedings is committed to the sound discretion of the district court. *Seattle Times Co. v. Rinehart*, 467 U.S. 20, 34-36 (1984). Where discovery questions have been referred to the Magistrate Judge, the District Judge may only reconsider his determination only "where it has been shown that the magistrate's order is clearly erroneous or contrary to law". 28 U.S.C. §633(b)(1)(A); Fed. R.Civ.P. 72(a). Higher courts may review discovery orders only for the abuse of discretion. *Ibid.*

The petition demonstrates no "special and important reasons" why this court should review the orderly and proper regulation of discovery proceedings before it. The petition fails even to demonstrate that there was error either by the reviewing courts, or in the original application of the rules to his discovery disputes by the Magistrate Judge.

Nor could the petitioner do so. He persistently raised what the district court described as frivolous obstructions and objections to discovery procedures conducted by respondents AAUP and Rutgers. He properly repetitively complained of nonexistent deficiencies in those respondents' discovery responses, while at the same time he refused to comply with local procedures requiring good faith efforts to resolve discovery disputes. Finally, his own appeals caused delays discovery proceedings pending resolution of his appeals.

Petitioner generally describes these proceedings as acts of fraud committed by the courts and some or all of respondents. No fraud occurred. Plaintiff was simply the recipient of discovery orders that ran counter to his solipsistic notions of how the federal rules should be read. Plaintiff's perceptions do not amount to evidence of fraud, nor do they warrant granting the writ.

II. There Are No "Special And Important Reasons" To Review The Court Of Appeals' Affirmance Of The District Court's Regulation Of Procedures Before It

The Federal Rules of Civil Procedure confer the district courts the power to "govern the procedure . . . in all suits of a civil nature." Fed.R.Civ.P.1. The rule further provides:

> They [the rules] shall be construed to secure the just, speedy and inexpensive determination of justice.

The petitioner points to numerous so-called frauds and errors in the district court's handling of this case before it. He accuses the court of wrongly granting leave to the AAUP to file papers, including its summary judgment papers, beyond the time provided for in previous scheduling order. The petition does not demonstrate how these very individualized rulings give rise to "special and important reasons". The petition does not even show any error in the way the district court regulated filings before it.

Nor could he do so, as the district court correctly ruled. The delay in filing summary judgment papers was attributable to petitioner, when he persistently refused to read and sign his depositions. Petitioner did not try to, nor could he, show any prejudice from what was, at most, a week's delay in the filing of a summary judgment motion that he wished to oppose.

Again, petitioner's unsupported and hypertichnical readings of the rules do not amount to evidence of wrongdoing or lawlessness by the courts or the parties, or to a basis for granting the writ.

III. There Are No "Special And Important Reasons" To Review The Grant Of Summary Judgment

A. The Denial of the Rule 56(f) Application

Petitioner asks review of the affirmance of the district court order denying his Fed.R.Civ.P.56(f) request for a continuance. Rule 56(f) provides:

> Should it appear from the affidavits of a party opposing the motion that the party cannot for reasons stated present by affidavit facts essential to justify the party's opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just.

At the time of the appeal, the Third Circuit had recently announced this standard:

> [The grant or denial of a continuance] depends, in part on what particular information is sought; how, if uncovered, it would preclude summary judgment; and why it has not previously been obtained.
>
> *Contractors Ass'n of Eastern Pa, Inc. v. City of Philadelphia*, 945 F.2d 1260, 1264(3d Cir. 1991).

As other courts have observed, summary judgment "need not be denied 'merely to satisfy a litigant's speculative hope of finding some evidence that may tend to support a complaint.'" *Meyer v. Dans un Jardin, S.A.*, 816 F.2d 533 (10th Cir. 1987). (Citations omitted.) The opponent of the motion must carry his burden to show by affidavit how additional time will enable him to rebut the movant's allegations; he may not "rely on vague assertions that additional discovery will produce needed, but unspecified, facts.'" *Id.* (Citation omitted.) *See also Childers v. Joseph*, 842 F.2d 689, 693 (3d Cir. 1988).

The plaintiff complained in his Rule 56(f) affidavit that he did not receive discovery. He referred generally to his interrogatories to the union and the university, which had been the subject of his unsuccessful motions to compel, and to the discovery served on various federal agencies. The affidavit failed to comply with Rule 56(f). The plaintiff did not explain what evidence he believed he would discover, and how that evidence would help him to oppose the motion. The courts below needed, but did not get, more than a conclusory statement that "I asked for some discovery and I think I did not get it." Bright did

not even satisfy the first two prongs of the test set forth in *Contractor's Ass'n*. The district court correctly so ruled.

Petitioner does not argue that the *Contractors Ass'n* test so departs from the standard of other circuits or from the rules to warrant granting the writ. He has not even shown that the test was wrongly applied in his particular case at all. There was no misapplication and thus no important issues of broad impact warranting the grant of the writ.

B. The Grant Of Summary Judgment

"Summary judgment may be granted when the record shows that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law." There is no genuine issue of material fact unless there is "sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party." *Anderson v. Liberty Lobby, Inc.* 477 U.S. 242, 249 (1986). "If the evidence is merely colorable, or is not significantly probative", summary judgment will lie. *Id.*

> [T]he plain language of Rule 56(c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial. In such a situation, there can be "no genuine issue as to any material fact, " since a complete failure of proof concerning an essential element renders all other facts immaterial.

Celotex Corp. v. Catrett. 477 U.S. 317, 322-23 (1986).

The element essential to Petitioner's case was proof that he satisfied the various statutes of limitations and procedural prerequisites in filing his lawsuit.

Petitioner was hired in May 1984. He admittedly recognized in May 1984 that he was being offered discriminatory conditions of employment. He began work in September 1984. He first went to the AAUP with his problems no sooner than 1985. After receiving instructions on the deadline for filing grievances in early 1985, he ignored them and the AAUP until spring 1986. He criticized the AAUP's alleged lack of action for him at least as early as November 1985. Thereafter, in May 1986 and especially June 1986, he accused the AAUP of "fraudulent" actions in failing to represent him with regard to his salary-and-rank claim, and he claimed the AAUP had harmed him in early 1985 by not filing a grievance on time. In June 1986, after his grievance had been deemed untimely, he threatened to sue the AAUP for its alleged in action and demanded "$4.0 million" damages.

The Complaint was filed September 21, 1988, more than two years after plaintiff had explicitly accused the AAUP of the very misconduct charged in the Complaint.

1. The statute of limitations for 42 U.S.C. §§1981, 1983 and 1985

In the years since *Wilson v. Garcia*, 471 U.S. 261 (1985), the courts in the Third Circuit have uniformly applied the two year personal injury statute of limitations of N.J.S.A. 2A:14-2 to claims under 42 U.S.C. §§1981, 1983 and 1985(3). This Court's decision in *Owens v. Okure*, 485 U.S. 958 (1989) did not change the rule in New

Jersey. *Cito v. Bridgewater Township Police Department*, 892 F.2d 23 (3d Cir. 1989).

In November 1985 and June 1986, Bright accused the AAUP of failing to file grievances for him since early 1985.

As to all acts of the AAUP before September 21, 1986, two years before the Complaint was filed, the district court correctly applied precedent and granted judgment on plaintiff's §§1981, 1983 and 1985 claims.[4] The Court of Appeals correctly affirmed that grant. Nothing in the petition suggests that *Cito* misreads this court's rulings, or departs from rulings of other circuits. Nothing in the petition argues that the application to his case of *Wilson*, *Owens* and *Cito* to this case was either wrong or special.

2. The statute of limitations for 42 U.S.C. §1986

Unlike the other Reconstruction civil rights statutes, 42 U.S.C. §1986 contains its own limitations period: "But no action under the provisions of this section shall be sustained which is not commenced within one

---

4. Professor Bright also alleged that the AAUP violated 42 U.S.C. §1988. Section 1988 is a purely procedural provision which creates no rights (except perhaps the right of the prevailing party to fees). *Moor v. Alameda County*, 411 U.S. 693, *reh. denied* 412 U.S. 963 (1973). To the extent that there may be substantive rights created by §1988, the statute of limitations should be two years. See *Cito*, above.

year after the cause of action has accrued." The plaintiff knew, in May 1985, well before September 21, 1987, one year before the Complaint was filed, of the AAUP's alleged failure to file his grievance on time which he considered to constitute the AAUP's neglect to prevent the violation of his rights under 42 U.S.C. §1985.

3. Title VII's procedural requirements

Section 706(e) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-5(e), requires that a charge of discrimination be filed with the EEOC within 300 days of the occurrence of the discrimination. This requirement is in the nature of a statute of limitations, which may be subject to estoppel or equitable tolling. *Zipes v. Trans World Airways*, 455 U.S. 385, 393 (1982).

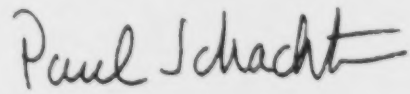
Bright admittedly filed no charge of discrimination at all against the AAUP. Bright did not claim ignorance of the EEOC processes. Instead, he admitted great familiarity with Title VII and the EEOC: he had filed charges as early as 1975, and again later in the 1970's. He also filed charges *three times* against Rutgers, in November 1985, May 1986 and March 1987. He did not file a charge against the AAUP because he believed, without any evidentiary support, that Rutgers and the union worked generally "in tandem", that the union had "no separate existence"; and that the union did not pay his paycheck. Reinhardt Aff., Ex. 1 at 296-297.

Even if the AAUP and Rutgers acted in tandem -- which the AAUP hotly disputes -- the EEOC charges were not timely. The courts below correctly applied well settled principles of exhaustion of administrative remedies. The petition does not reveal, nor are there, any special reasons to review the decisions below.

CONCLUSION

For the foregoing reasons, the Court should deny the petition for certiorari in all respects.

Respectfully submitted,



PAUL SCHACHTER
Counsel of Record
DENISE REINHARDT
REINHARDT & SCHACHTER, P.C.
744 Broad Street, Suite 3100
Newark, New Jersey 07102
(201) 623-1600

Attorneys for the Respondent
Rutgers Council of AAUP Chapter

Dated: September 9, 1992

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No. 92-254

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1992

JAY B. BRIGHT, PETITIONER, Pro Se

v.

RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY
RUTGERS COUNCIL OF AAUP CHAPTERS
FEDERAL BUREAU OF INVESTIGATION
IMMIGRATION AND NATURALIZATION SERVICE
NEW JERSEY DIVISION OF STATE POLICE
- RESPONDENTS

On Petition for a Writ of Certiorari
to the U.S. Court of Appeals - 3d Cir

REPLY BRIEF OF PETITIONER
vis-a-vis Brief in Opposition (or Waiver)
of each one of the four respondents
in this single volume

Jay B. Bright, Petitioner, Pro Se
212 - B Hillcrest Avenue
Collingswood NEW JERSEY 08108
(609) 854 7809

September, 1992

No. 9 2 - 2 5 4

- -

JAY B. BRIGHT, PETITIONER, Pro Se

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RUTGERS, THE STATE UNIVERSITY OF NEW JERSEY
RUTGERS COUNCIL OF AAUP CHAPTERS
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L I S T O F P A R T I E S :

Please see next page . . . . . .

0.1 LIST OF PARTIES :

The Petitioner, Pro Se, :

Jay B. Bright, 212 B Hillcrest Ave,

Collingswood, New Jersey, 08108

The Respondents :

FOR RUTGERS UNIVERSITY:

Aron Schwartz,Esq,

77 Headquarters Pl N,

Morristown, NJ, 07960;

FOR RUTGERS COUNCIL OF AAUP CHAPTERS:

Denise Reinhardt,Esq, 744 Broad St.,

Newark, NJ, 07102;

FOR NEW JERSEY: Michael Furda,Esq,

CN 116, Trenton NJ, 08625;

FOR THE UNITED STATES :

Kenneth Starr

Solicitor General of the U.S.

Washington DC 20530

T A B L E O F C O N T E N T S

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- - - - - - - - - -

0.2 TABLE OF AUTHORITIES

In this REPLY BRIEF of Petitioner, Pro Se, no cases, statutes, rules etc. have been cited, as the Reply is an overview of the Briefs in Opposition / Waivers received.

0.31 N O T A T I O N :

[i] D.S.I. = Docket Sheet Item in the U.S.Dist Court

[ii] "I, me. . ." = the Petitioner (Plaintiff; Appellant; Pro Se)

0.32 T H E C O N T E X T :

0.321 The Petitioner, Pro Se ("I, me. . ."), filed his Petition, initially titled "Petition for an Extrordinary (Supervisory) Writ", on July 14,1992. The Clerk of this honorable Court asked me (i.e., the Petitioner, Pro Se) to correct the title of my Petition to a title requesting a Certiorari Writ, and also requested changes in the format of the initial Petition. I then refiled the Petition with the revised title, "Petition for a Writ of Certiorari", and margin corrections, received by the Clerk on August 10,1992.

0.322 I (plaintiff / appellant / petitioner) also filed, simultaneously with

my Petition, a set of three motions.

0.40 RESPONDENT COUNSEL'S VIOLATION OF THE RULES OF THIS COURT VIS-A-VIS THEIR BRIEFS IN OPPOSITION OR WAIVERS :

(the Clerk of this hon. Court was promptly alerted by me regarding these via my letters to the Clerk dated Sept 8,1992 and Sept 12,1992)

0.41 Of the four Respondent counsel, the counsel for the principal Respondent, Rutgers University, "apparently" filed his Brief in Opposition on Sept 9,1992 but in violation of Court Rules/Established Procedure. He

[i] has avoided signing his said brief, and

[ii] mailed copies of his said brief late (i.e., following said filing). Their envelope, delivered through the US Postal Service, bears no cancellation marks of the US Postal Service, and, as numerous

times before, shows some jumbled and illegible circular smudges which are on a transparent tape smoothed over the stamps rather than on the envelope. I received it late, and said counsel's printer who mailed me the copies has avoided getting the Certificate of Service notarized though required.

Said counsel's Brief in Opposition contains numerous falsehoods and fabrications, and this may be the motive for him to avoid signing his brief in question. Furthermore, massive and chronic court related fraud committed by said counsel /his clients in the courts below **includes** mail fraud, that related to fraudulent affidavits, withholding of evidence and filing falsified and fraudulent documents.

Please see in this regard the following:

Petition para 9.09 / Petition p 35

,, para 9.20 / Petition pp 43, 44

,, Apdx J 5 / Petition p A71

,, Apdx K / Petition pp A80, A81.

0.42 The Brief in Opposition of respondent "Rutgers Council of AAUP Chapters" (the faculty union, i.e., the local branch of the national AAUP),a peripheral organization of Rutgers University, also seriously violates the Rules of this Court : the person signing it, one Schachter, [i] has not filed appearance papers with this Court and was not counsel of record in the courts below; [ii] has avoided getting notarized the Certificate of Service(Mailing)[1] ; [iii] misleads the Court by falsely claiming that he, Schachter, is counsel of record (which he is not); and [iv] falsely claims at the bottom of the title page that he is counsel for respondent Rutgers University.

---

[1] The envelope with said contrived copies

of Rutgers Council (AAUP), as numerous times before, bears no postal cancellation marks though delivered by the US Postal Service. One of the Respondents, United States, and other Respondents/ defendants have ongoingly "used" the US Postal Service (USPS), and private carriers such as the UPS and the Federal Express since the filing of the Dist Ct Complaint to unlawfully and maliciously manipulate all materials I receive (or send out). **Please see in this regard** : Petition pp A92, A94.

Even mail received from this court (the Supreme Court of the U.S.) has ongoingly shown no cancellation marks, and the envelopes never show any sign of the s'ight wear and tear one would expect if the mail has passed through the USPS.

As to Schachter's and Reinhardt's said exercise in comtempt of this Court, there are at least two motives :

first, the Brief in Opposition signed by Schachter contains a series of contrived statements and untruths; so that Reinhardt (who is and has been the counsel of record for the Rutgers branch of the AAUP) can, if necessary, disavow the untruths in said Brief in Opposition.

Secondly, said brief cites affidavits by Reinhardt in the Dist Ct which are blatantly fraudulent and were vouched for

in the Dist Court by Schachter, signing as if he were a notary public (which he is not).

Counsel of record for the Rutgers Council (the faculty union, or the "AAUP" branch) Reinhardt, said Schachter, and numerous AAUP members have a long record of blatant and persistent court related and other fraud in the courts below **including** mail fraud and fraud related to filing fraudulent affidavits, among other. Please see in this regard :

Petition Apdx J 8 / pp **A**75, **A**76

,, Apdx J 10 / p A79, A80

,, Apdx K / p A80, A81

0.421 I respectfully urge the Court to grant me my motions pending before the Court which include a motion to permit me to file further and future filings on page-size 8 1/2" x 11" since substantial court fraud and obstruction of justice involving defense counsel, de-

fendants, clerks of the courts below, the Dist Magistrate and the Dist Judge involve profuse evidence on 8 1/2" x 11" size paper which is the size used in the Federal courts below.

As a Pro Se, unemployed petitioner (blacklisted by two of the respondents as charged in the Dist Ct Complaint), the Court's granting said motion would be of great help to me.

0.43 The Counsel for respondent U.S. - the Solicitor General - has **also** violated **established court procedure** via-a-vis his Waiver filed Sept 3,1992, by

[i] not signing his Waiver;

[ii] altering the case number assigned to this case; and

[iii] altering the case title assigned to this case including an alteration of the name of the Petitioner.

As the courts change over to computer-

ized file-creation and filing, the latter two items are as serious as the first, especially since the counsel for the U.S. in the courts below, an Asst U.S. Attorney and another Asst U.S. Attorney not counsel of record in this case in the courts below, have on several occasions in the Dist Ct below, resorted to unlawfulness including alteration of documents and also to otherwise wilfully misleading the Federal judicial system to the plaintiff / Petitioner's detriment.

The Dist Court COMPLAINT itself charges individuals in the U.S. government and in the New Jersey government -- several of them in high positions, with strong ties with Rutgers University and its Law School located one block from and right behind the U.S.Court House - with engaging in a prolonged conspiracy with individuals in Rutgers University and its faculty union , and with, among other,

building fraudulent and malicious dossiers on me plaintiff/appellant//Petitioner. Said dossiers were unlawfully denied me despite repeated motions in the Dist court.

- Please see in this regard

Petition Apdx H /Petn pp A45 through A50.

Petition para 8.6 / Petn p 20

,, para 9.08 / p 33

,, para 9.11 / p 37

,, para 9.16 / p 41

,, para 9.17 / p 42

,, para 9.40 / p 45

0.44 In view of paragraphs 0.41, 0.42, and 0.43 supra, it is **respectfully requested that said filings be removed from the docket of this Court.**

0.441 - I had promptly alerted the Clerk of this Court of the above violations of Court Rules via my letters to him of Sept 8,1992 and Sept 12,1992.

1.0 PETITIONER'S **R E P L Y** IN THE FORM OF AN OVERVIEW OF THE CASE :

1.1 The Petitioner ("I, me...") seeks an Extraordinary (Supervisory) Writ or in the alternative, a Certiorari Writ (latter to the U.S.Court of Appeals for the Third Circuit) and requests this honorable Court to step in to correct blatant, persistent and extreme usurpation of power including repeated defraudation of Dist court documents by the Dist Judge; the Dist Judge's chronic tolerence and active endorsment of massive court related fraud and other unlawfulness by the defense counsel and by defendants; ongoing affirmance of the above by the U.S. Court of Appeals with never an opinion; and several instances of violations of established and lawful judicial procidure by the Clerks of **both** the Dist Court and the Court of Appeals - all within a one-mile radius of prinicipal

defendant Rutgers University including its Law School.

1.2 The basis of my Petition is

[i] 28 USC S 1651 (a) ; and

[ii] **that portion** of S Ct Rule 10.1(a) which corresponds to a U.S.Court of Appeals endorsing "... such a departure by a lower court so as to call for an exercise of this court's power of supervision".

Thus, there is no question of there being or not being a conflict between the C.A.'s opinion and that of other Courts of Appeal. As such, the C.A. has not filed any opinion on Dist Ct proceedings - neither on my final appeal before that court, nor on a preceding Mandamus Petition, nor on my two different interlocutory appeals before.

1.3 The case is concerning a conspiracy to abridge my civil and Constitutional rights spanning the period 1984

through 1988(when the Dist Ct Complaint was filed) involving the defendants, among others; and such conspiracy continues **even now.** The Complaint is clear on the point. I respectfully deny any contention that unlawful acts of defendants somehow began and ended in 1984. Please see in this regard

[i]

Petition para 9.14 / Petn pp 40, 41

,, para 9.40 / Petn p 45

,, Apdx H / Petn pp A49, A50 ;

[ii]

For the list of statutes invoked in the District Court, my Petition pp 13, 14 therein ;

1.4 I respectfully reiterate that the fundamental tenet which was violated in the courts below in this case is the tenet that **full and lawful** discovery of facts must **precede** any evaluation of statutes invoked, or other proceedings, in

any lawsuit.

In this case, as I have contended and profusely and meticulously documented in my Petition, the Dist Judge repeatedly and with malice obstructed justice vis-a-vis **all four** defendants; and the U.S.Court of Appeals repeatedly (in two of my interlocutory appeals, in a Mandamus Petition, and in the final appeal) endorsed such with never an Opinion, with clerks and staff attorneys in both courts also actively engaging in obstruction of justice.

Please see in this regard

Petition para 8.6 / Petition p 20
,, para 8.90 / Petition p 23
,, para 8.91 / Petition p 24
,, para 8.95 / Petition p 25
,, para 9.08 / Petition p 33
,, para 9.09 / Petition p 35
,, para 9.10 / Petition p 36
,, para 9.11 / Petition p 37
,, para 9.13 / Petition pp 39, 40

,, para 9.15 / Petition p 41

,, para 9.16 / Petition p 41

,, para 9.17 / Petition p 42

,, para 9.19 / Petition p 43

,, para 9.20 / Petition pp 43, 44

,, para 9.30 / Petition p 44

,, para 9.40 / Petition p 45.

1.5 Another fundamental tenet upon which my Petition is based is that there must be just and lawful administration of justice; and in the Dist Ct proceedings, the Magistrate and the Judge resorted to extreme and repeated usurpation of power, permiting unlawfulness in the court, and they themselves resorting to such.

Please see in this regard the following :

Petition para 8.6 / Petition p 20

,, para 8.90 / Petition p 23

,, para 8.91 / Petition p 24

,, para 8.95 / Petition p 25

,, para 9.08 / Petition p 33 →

,, para 9.09 / Petition p 35

,, para 9.10 / Petition p 36

,, para 9.11 / Petition p 37

,, para 9.12 / Petition p 38

,, para 9.13 / Petition p 39

,, para 9.14 / Petition p 40

,, para 9.15 / Petition p 41

,, para 9.16 / Petition p 41

,, para 9.17 / Petition p 42

,, para 9.19 / Petition p 43

,, para 9.20 / Petition p 43

,, para 9.30 / Petition p 44

,, para 9.40 / Petition p 45

,, para 9.50 / Petition p 46

1.6 The U.S.Court of Appeals for the Third Circuit also tarnished the administration of justice. Please see in this regard :

Petition para 8.8 / Petition p 23

,, para 8.92 / Petition p 24

,, para 8.93 / Petition p 25

,, para 9.12 / Petition p 38

→

,, para 9.18 / Petition p 43

,, para 9.60 / Petition p 46

,, para 9.61 / Petition p 47

,, para 1.5.01 / Petition p A121

,, para 1.5.02 / Petition p A121

,, para 2.00 / Petition p A121.

2.01 The case law I have cited in my Petition appears on pp 49 and 50 of my Petition.

3.01 The Statement of the Case and Facts of the Case are as I have presented in my Petition.

4.01 Witnessed in this case is not just substantial and ongoing obstruction of justice, but also an improper and unlawful involvement of the executive branch of the Federal government in such.

5.01 As to the question presented in my Petition regarding the EEOC matter - which is just one of a number of counts or headings in my Dist Ct Complaint - the fact that Rutgers University refused to

provide me with **statistics** on relative salaries in the department, that I filed the EEOC complaint within 180 days of such, and that Rutgers then provided falsified and fraudulent data to the EEOC and later to the Dist Court, remains uncontroverted.

Please see in this regard

Petition para 9.09 / Petition p 35

Petition para 9.20 / Petition pp 43,44.

6.1 CONCLUSION AND REMEDY SOUGHT :

I respectfully request that this honorable Court look into this case in exercise of this Court's role of judicial supervision of the administration of justice in the interest of maintaining established standards of procedure and of evidence. In the courts below (both being Federal courts) the District Judge severely tarnished judicial cannons of rigorous and impartial justice; and the

Court of Appeals repeatedly failed to correct such, exhibiting additionaly a questionable conduct of its own.

Respectfully submitted,

Jay B. Bright / Sept. 21, 1992

Jay B. Bright, Ph.D.
Petitioner, Pro Se
212 B Hillcrest Avenue
Collingswood NEW JERSEY 08108
(609) 854 7809